



## LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA REVISED

Business Committee Conference Room - 2nd Floor Norbert Hill

Center January 15, 2025

9:00 a.m.

### **I. Call to Order and Approval of the Agenda**

### **II. Minutes to be Approved**

1. December 18, 2024 LOC Meeting Minutes (pg. 2)

### **III. Current Business**

1. Oneida Life Insurance Plan Law Amendments (pg. 4)
2. Petition S. Benton – Move Oneida Nation Arts Program under Tourism or Community Development (pg. 27)
3. Oneida Law Enforcement Ordinance Amendments (pg. 31)

### **IV. New Submissions**

### **V. Additions**

### **VI. Administrative Updates**

### **VII. Executive Session**

### **VIII. Recess/Adjourn**



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center  
December 4, 2024  
9:00 a.m.

**Present:** Jameson Wilson, Kirby Metoxen, Jonas Hill, Jennifer Webster, Marlon Skenandore

**Others Present:** Clorissa N. Leeman, Grace Elliott, Carolyn Salutz

**Others Present on Microsoft Teams:** Rae Skenandore, Kaylynn Gresham, Tavia James-Charles, Ralinda Ninham-Lamberies, Fawn Billie, Fawn Cottrell, Justin Nishimoto, Jason Martinez, Maureen Perkins, Joel Maxam, Sarah White, Mark Powless, Peggy Helm-Quest

**I. Call to Order and Approval of the Agenda**

Jameson Wilson called the December 18, 2024, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jonas Hill to approve the agenda; seconded by Jennifer Webster. Motion carried unanimously.

**II. Minutes to be Approved**

**1. December 4, 2024 LOC Meeting Minutes**

Motion by Jenny Webster to approve the December 4, 2024 LOC meeting minutes and forward to the Oneida Business Committee; seconded by Jonas Hill. Motion carried unanimously.

**III. Current Business**

**1. Oneida Life Insurance Plan Law Amendments**

Motion by Kirby Metoxen to approve the updated public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Oneida Life Insurance Plan law; seconded by Jennifer Webster. Motion carried unanimously.

Motion by Jennifer Webster to approve the fiscal impact statement request memorandum and forward the materials to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by January 9, 2025; seconded by Marlon Skenandore. Motion carried unanimously.

**IV. New Submissions**

**1. Petition S. Benton- Move Oneida Nation Arts Program under Tourism or Community Development**



Motion by Jonas Hill to add the Petition S. Benton – Move Oneida Nation Arts Program under Tourism or Community Development to the Active Files List with Kirby Metoxen as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

**V. Additions**

**VI. Administrative Updates**

**VII. Executive Session**

**VIII. Adjourn**

Motion by Jennifer Webster to adjourn at 9:14 a.m.; seconded by Marlon Skenandore. Motion carried unanimously.



Legislative Operating Committee  
 January 15, 2025

# Oneida Life Insurance Plan Law Amendments

|                                    |                                 |
|------------------------------------|---------------------------------|
| <b>Submission Date:</b> 6/5/24     | <b>Public Meeting:</b> 11/15/24 |
| <b>LOC Sponsor:</b> Jameson Wilson | <b>Emergency Enacted:</b> N/A   |

**Summary:** *This item added to the Active Files List on June 5, 2024, at the request of the Chief Financial Officer, Ralinda Ninham-Lamberies. The CFO requested the LOC consider an emergency amendment to the Law to remove section 1004.5-3 which provides that “the Oneida Trust Enrollment Department shall be notified within one (1) year of the member of the Nation’s death in order to distribute the Oneida Life Insurance Plan benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary of the decedent’s death shall not be processed for distribution.” Finance provided that recently a member of the Nation missed the deadline by four (4) days, and there would not be an increase in liability if this provision is removed due to limited staff availability. The LOC determined this request did not meet the standard for emergency legislation provided for in section 109.9-5 of the LPA, but decided to add this item to the Active Files List anyways due to the August 20, 2023 OBC motion which directed the LOC to bring this Law back for a one (1) year review of its adoption and implementation.*

**6/5/24 LOC:** Motion by Jonas Hill to add the Oneida Life Insurance Plan Law Amendments to the Active Files List with Jameson Wilson as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

**8/26/24:** *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Kirby Metoxen, Marlon Skenandore, Clorissa Leeman, Carl Artman, Ralinda Ninham-Lamberies, John Danforth, Michelle John, Heidi Janowski, Fawn Billie, Kristal Hill, Maureen Perkins. The purpose of this work meeting was to discuss how the implementation of the Oneida Life Insurance Plan law went during its first year, and begin discussions on whether any amendments to the law are necessary at this time.

**8/29/24:** *Work Meeting.* Present: Jameson Wilson, Marlon Skenandore, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Fawn Cottrell, Kristal Hill, Maureen Perkins, Fawn Billie, Carolyn Salutz. The purpose of this work meeting was to determine what, if any, amendments to make to the Oneida Life Insurance Plan law based on the information received during the One Year Review work meeting held on August 26, 2024.

**9/4/24 LOC:** Motion by Kirby Metoxen to accept the memorandum entitled, One (1) Year Review of the Oneida Life Insurance Plan Law; seconded by Marlon Skenandore. Motion carried unanimously.

Motion by Marlon Skenandore to approve the draft of proposed amendments to the Oneida Life Insurance Plan law and direct that a legislative analysis be developed; seconded by Jonas Hill. Motion carried unanimously.

**9/18/24 LOC:** Motion by Jonas Hill to approve the legislative analysis for the proposed amendments to the Oneida Life Insurance Plan law; seconded by Marlon Skenandore. Motion carried unanimously.

**10/2/24:** *E-Poll Conducted.* This e-poll was titled, Approval of Canceled October 2, 2024 LOC Meeting Materials . The requested action of this e-poll was to: approve the September 18, 2024, LOC meeting minutes and forward to the Oneida Business Committee; approve the public meeting packet for the proposed amendments to the Oneida Life Insurance Plan law, and forward the Oneida Life Insurance Plan law amendments to a public meeting to be held on November 15, 2024; approve the adoption packet for the Computer Resources Ordinance amendments and forward to the Oneida Business Committee for consideration; approve the public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Investigative Leave Policy; and approve the fiscal impact statement request memorandum and forward the materials to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by October 16, 2024. The e-poll was approved by Jennifer Webster, Kirby Metoxen, Jonas Hill, Jameson Wilson, and Marlon Skenandore.

**10/16/24 LOC:** Motion by Jonas Hill to enter into the record the results of the October 2, 2024, e-poll entitled, Approval of the Canceled October 2, 2024 LOC Meeting Materials; seconded by Jennifer Webster. Motion carried unanimously.

**11/15/24:** *Public Meeting Held.* Present: Jameson Wilson, Clorissa Leeman, Gina Powless, John Danforth, Michelle John, Barbara Metoxen, Bonnie Pigman, Carolyn Salutz, Diana Hernandez, Grace Elliott, Jason Martinez, Jesse Kujawa, Justin Nishimoto, Katherine Jordan, Lee Schuyler, Mae Cornelius, Matthew Denny, Patricia Garvey, Ronald Wurth, Todd Vandenheuvel. Five (5) individuals provided comments during the public meeting.

**11/22/24:** *Public Comment Period Closed.* Two (2) individuals provided written comments during the public comment period.

**12/4/24 LOC:** Motion by Jenny Webster to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Kirby Metoxen. Motion carried unanimously.

**12/4/24:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Jonas Hill, Clorissa Leeman, Carolyn Salutz, Grace Elliott, Maureen Perkins. The purpose of this work meeting was to review and consider the public comments received.

**12/18/24 LOC:** Motion by Kirby Metoxen to approve the updated public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Oneida Life Insurance Plan law; seconded by Jennifer Webster. Motion carried unanimously.


Motion by Jennifer Webster to approve the fiscal impact statement request memorandum and forward the materials to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by January 9, 2025; seconded by Marlon Skenandore. Motion carried unanimously.

**12/27/24:** *Fiscal Impact Statement Received.* The Finance Administration provided the LOC the fiscal impact statement.

**Next Steps:**

- Approve the adoption packet for the Oneida Life Insurance Plan law amendments and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee  
FROM: Jameson Wilson, LOC Chairperson   
DATE: January 15, 2025  
RE: Adoption of Amendments to the Oneida Life Insurance Plan Law

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Please find the following attached backup documentation for your consideration of the adoption of amendments to the Oneida Life Insurance Plan law:

1. Resolution: Amendments to the Oneida Life Insurance Plan Law
2. Statement of Effect: Amendments to the Oneida Life Insurance Plan Law
3. Oneida Life Insurance Plan Law Amendments Legislative Analysis
4. Oneida Life Insurance Plan Law Amendments Draft (Redline)
5. Oneida Life Insurance Plan Law Amendments Draft (Clean)
6. Oneida Life Insurance Plan Law Amendments Fiscal Impact Statement

#### *Overview*

The purpose of the Oneida Life Insurance Plan law is to provide a death benefit through the Oneida Life Insurance Plan for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law. [10 O.C. 1004.1-1]. Amendments to the Oneida Life Insurance Plan law are being sought to include an appeal section which provides that an individual designated as the beneficiary of a decedent who believes they were wrongfully denied benefits from the Oneida Life Insurance Plan by the Oneida Trust Enrollment Department may appeal the denial of benefits to the Oneida Trust Enrollment Committee, and subsequently any decision made by the Oneida Trust Enrollment Committee regarding the validity of the denial of benefits is final. [10 O.C. 1004.9-1].

The Legislative Operating Committee developed the proposed amendments to the Oneida Life Insurance Plan law through collaboration with representatives from the Oneida Law Office, Finance Administration, Oneida Trust Enrollment Department, and Central Accounting. The Legislative Operating Committee held three (3) work meetings on the development of the amendments to the Oneida Life Insurance Plan law.

The development of the amendments to the Oneida Life Insurance Plan law complies with all processes and procedures required by the Legislative Procedures Act, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

The Legislative Operating Committee held a public meeting on the proposed amendments to the Oneida Life Insurance Plan law on November 15, 2024, with five (5) individuals providing oral comments. The public comment period for the amendments to this Oneida Life Insurance Plan law was held open until November 22, 2024, with two (2) submissions of written comments received. The Legislative Operating Committee accepted, reviewed, and considered the public comments

received on December 4, 2024.

The amendments to the Oneida Life Insurance Plan law will become effective on February 5, 2025.

**Requested Action**

Adopt the Resolution: Amendments to the Oneida Life Insurance Plan Law



# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # Amendments to the Oneida Life Insurance Plan Law

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**WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

**WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and

**WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

**WHEREAS,** the Oneida Life Insurance Plan law (“the Law”) was adopted by the Oneida Business Committee through resolution BC-08-23-23-G; and

**WHEREAS,** the purpose of this Law is to provide a death benefit through the Oneida Life Insurance Plan for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law; and

**WHEREAS,** the amendments to the Law add a new section which provides that an individual designated as the beneficiary of a decedent who believes they were wrongfully denied benefits from the Oneida Life Insurance Plan by the Oneida Trust Enrollment Department may appeal the denial of benefits to the Oneida Trust Enrollment Committee, and subsequently any decision made by the Oneida Trust Enrollment Committee regarding the validity of the denial of benefits is final; and

**WHEREAS,** the Legislative Operating Committee developed the proposed amendments to the Law through collaboration with representatives from the Oneida Law Office, Finance Administration, Oneida Trust Enrollment Department, and Central Accounting; and

**WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact statement were completed for the proposed amendments to the Law; and

**WHEREAS,** the Legislative Operating Committee held a public meeting on the proposed amendments to the Law on November 15, 2024, with five (5) individuals providing oral comments, and the public comment period for the amendments to this Law was held open until November 22, 2024, with two (2) submissions of written comments received; and

**WHEREAS,** the Legislative Operating Committee accepted, reviewed, and considered the public comments received on December 4, 2024; and

**NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts the amendments to the Oneida Life Insurance Plan law, which shall become effective on February 5, 2025.



## Statement of Effect

### *Amendments to the Oneida Life Insurance Plan Law*

#### *Summary*

This resolution adopts amendments to the Oneida Life Insurance Plan law.

*Submitted by: Clorissa N. Leeman, Senior Staff Attorney, Legislative Reference Office*

*Date: January 15, 2025*

#### *Analysis by the Legislative Reference Office*

This resolution adopts amendments to the Oneida Life Insurance Plan law. The purpose of the Oneida Life Insurance Plan law is to provide a death benefit through the Oneida Life Insurance Plan for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law. [10 O.C. 1004.1-1]. Amendments to the Oneida Life Insurance Plan law are being sought to include an appeal section which provides that an individual designated as the beneficiary of a decedent who believes they were wrongfully denied benefits from the Oneida Life Insurance Plan by the Oneida Trust Enrollment Department may appeal the denial of benefits to the Oneida Trust Enrollment Committee, and subsequently any decision made by the Oneida Trust Enrollment Committee regarding the validity of the denial of benefits is final. [10 O.C. 1004.9-1].

Adoption of any legislation is required to comply with the Legislative Procedures Act (“the LPA”), which was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a standardized process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. The Oneida Life Insurance Plan law amendments complied with all processes and procedures required by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

The Legislative Operating Committee held a public meeting on the proposed amendments to the Oneida Life Insurance Plan law on August 21, 2024. No individuals provided public comments during this public meeting. The public comment period was then held open until August 28, 2024. No written comments were received during this public comment period.

The Legislative Operating Committee held a public meeting on the proposed amendments to the Oneida Life Insurance Plan law on November 15, 2024, with five (5) individuals providing oral comments. The public comment period for the amendments to this Oneida Life Insurance Plan law was held open until November 22, 2024, with two (2) submissions of written comments received. The Legislative Operating Committee accepted, reviewed, and considered the public comments received on December 4, 2024.

The amendments to the Oneida Life Insurance Plan law will become effective on February 5, 2025.

***Conclusion***

Adoption of this resolution would not conflict with any of the Nation's laws.



# ONEIDA LIFE INSURANCE PLAN LAW AMENDMENTS LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

| <i>Analysis by the Legislative Reference Office</i> |  |
|---|--|
| <b>Intent of the Proposed Amendments</b>            | Include an appeal section which provides that an individual designated as the beneficiary of a decedent who believes they were wrongfully denied benefits from the Oneida Life Insurance Plan by the Oneida Trust Enrollment Department may appeal the denial of benefits to the Oneida Trust Enrollment Committee, and subsequently any decision made by the Oneida Trust Enrollment Committee regarding the validity of the denial of benefits is final. <i>[10 O.C. 1004.9-1]</i> . |
| <b>Purpose</b>                                      | The purpose of this law is to provide a death benefit through the Oneida Life Insurance Plan for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law. <i>[10 O.C. 1004.1-1]</i> .  |
| <b>Affected Entities</b>                            | Oneida Trust Enrollment Department, Members of the Nation  |
| <b>Public Meeting</b>                               | A public meeting was held on November 15, 2024. Five (5) individuals provided comments during the public meeting. The public comment period was then held open until November 22, 2024. Two (2) individuals provided written comments during the public comment period.  |
| <b>Fiscal Impact</b>                                | A fiscal impact statement was received from Finance on December 27, 2024.  |

## SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. Background.** The Oneida Life Insurance Plan law was adopted by the Oneida Business Committee in
- 3 August of 2023 through resolution BC-08-23-23-G. The purpose of the Oneida Life Insurance Plan law
- 4 is to the purpose of providing a death benefit through the Oneida Life Insurance Plan for all eligible
- 5 enrolled Oneida Nation members, pursuant to the Oneida General Welfare law. *[10 O.C. 1004.1-1]*. It
- 6 is the policy of the Nation to care for its members and their families even after their death. *[10 O.C.*
- 7 *1004.1-2]*. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure equitable
- 8 and expedient distribution to designated beneficiaries. *Id.* The General Tribal Council, through
- 9 resolution GTC-01-17-09-B, approved the concept of the Oneida Life Insurance Plan Plus to replace
- 10 the Oneida Burial Fund. *[10 O.C. 1004.1-1(a)]*. The General Tribal Council directed implementation
- 11 of a benefit that pays fifteen thousand dollars (\$15,000) to the designated beneficiary or beneficiaries
- 12 of the deceased Oneida Nation member. *Id.* The payment of death benefits through OLIPP to designated
- 13 beneficiaries of a deceased Oneida Nation member is an exercise of self-governance crucial to the
- 14 Oneida Nation’s sovereignty, and health and welfare of the community. *Id.*
- 15 **B. Request for Amendments.** This item added to the Active Files List on June 5, 2024, at the request of
- 16 the Chief Financial Officer (CFO), Ralinda Ninham-Lamberies. The CFO requested the Legislative
- 17 Operating Committee consider an emergency amendment to the Law to remove section 1004.5-3 which

18 provides that “*the Oneida Trust Enrollment Department shall be notified within one (1) year of the*  
 19 *member of the Nation’s death in order to distribute the Oneida Life Insurance Plan benefits to the*  
 20 *beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary of the decedent’s*  
 21 *death shall not be processed for distribution.*” Finance provided that recently a member of the Nation  
 22 missed the deadline by four (4) days, and there would not be an increase in liability is this provision is  
 23 removed due to limited staff availability. The Legislative Operating Committee determined this request  
 24 did not meet the standard for emergency legislation provided for in section 109.9-5 of the Legislative  
 25 Procedures Act, but decided to add this item to the Active Files List anyways due to the August 20,  
 26 2023 Oneida Business Committee motion which directed the Legislative Operating Committee to bring  
 27 this Law back for a one (1) year review of its adoption and implementation.

28 **C. One Year Review.** When the Oneida Life Insurance Plan law was adopted in August of 2023, the  
 29 Oneida Business Committee also directed that the Oneida Life Insurance Plan law be brought back to  
 30 the Legislative Operating Committee in one (1) year for review. On August 26, 2024, the Legislative  
 31 Operating Committee meet with the Trust Enrollments Department, Finance, and the Oneida Law  
 32 Office to discuss the status of implementation of the Oneida Life Insurance Plan law during its first  
 33 year, and to begin discussions on whether any amendments to the law are necessary at this time. The  
 34 Legislative Operating Committee accepted the memorandum entitled, *One (1) Year Review of the*  
 35 *Oneida Life Insurance Plan Law*, on September 4, 2024. Overall, the Trust Enrollments Department,  
 36 Finance, and the Oneida Law Office provided that the implementation of the Oneida Life Insurance  
 37 Plan law has been smooth and the law is operating as it was intended. Although the Oneida Life  
 38 Insurance Plan law is working as intended, the Legislative Operating Committee was asked by Finance  
 39 to consider two (2) areas where amendments to the Oneida Life Insurance Plan law could potentially  
 40 result in improvements in how the law is administered: (1) Section 1004.5-2(d) and 1004.6-3: regarding  
 41 the requirement that funeral expenses be paid directly to the funeral home first before any remaining  
 42 funds are paid to beneficiary; and (2) Section 1004.5-3: regarding the notice of death requirement of  
 43 one (1) year. Ultimately, the Legislative Operating Committee decided to pursue amendments to the  
 44 Oneida Life Insurance Plan law to address the length of time for the notice of death requirement. In the  
 45 one (1) year review the Oneida Trust Enrollment Department provided the following statistics that were  
 46 current as of August 29, 2024, to provide some perspective on how the Oneida Life Insurance Plan has  
 47 been administered during its first year:

| <b>Oneida Life Insurance Plan Law Statistics</b> |                        |                    |   |  |
|--|------------------------|--------------------|---|--|
| <i>Month</i>                                     | <i>Deaths Reported</i> | <i>OLIP Claims</i> | <i>Claims that Provided a Beneficiary</i> | <i>Claims that Did Not Provide a Beneficiary</i> |
| September 2023                                   | 13                     | 12                 | 9   | 3  |
| October 2023                                     | 12                     | 12                 | 11  | 1  |
| November 2023                                    | 10                     | 9                  | 9   | 0  |
| December 2023                                    | 18                     | 16                 | 13  | 3  |
| January 2024                                     | 16                     | 17                 | 15  | 2  |
| February 2024                                    | 22                     | 22                 | 19  | 3  |
| March 2024                                       | 15                     | 13                 | 13  | 0  |
| April 2024                                       | 10                     | 10                 | 10  | 0  |
| May 2024   | 23                     | 23                 | 21  | 2  |
| June 2024  | 13                     | 13                 | 10  | 3  |

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|-------------|----|---|---|---|
| July 2024   | 10 | 9 | 8 | 1 |
| August 2024 | 12 | 2 | 2 | 0 |

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50 **SECTION 3. CONSULTATION AND OUTREACH**

51 A. Representatives from the following departments or entities participated in the development of the  
52 amendments to the Oneida Life Insurance Plan law and this legislative analysis:

- 53     ▪ Oneida Law Office;
- 54     ▪ Finance Administration;
- 55     ▪ Oneida Trust Enrollments Department; and
- 56     ▪ Central Accounting.

57 B. The following laws were reviewed in the drafting of this analysis:

- 58     ▪ Oneida General Welfare law; and
- 59     ▪ Administrative Rulemaking law.

60

61 **SECTION 4. PROCESS**

62 A. The development of the proposed amendments to the Oneida Life Insurance Plan law complies with  
63 the process set forth in the Legislative Procedures Act (LPA).

- 64     ▪ On June 5, 2024, the Legislative Operating Committee added the Oneida Life Insurance Plan law  
65 to its Active Files List.
- 66     ▪ On September 4, 2024, the Legislative Operating Committee approved the draft of proposed  
67 amendments to the Oneida Life Insurance Plan law.
- 68     ▪ On September 18, 2024, the Legislative Operating Committee approved the legislative analysis for  
69 the proposed amendments to the Oneida Life Insurance Plan law.
- 70     ▪ On October 2, 2024, the Legislative Operating Committee conducted an e-poll entitled, *Approval*  
71 *of Canceled October 2, 2024 LOC Meeting Materials*, which included a requested action of approve  
72 the public meeting packet for the proposed amendments to the Oneida Life Insurance Plan law, and  
73 forward the Oneida Life Insurance Plan law amendments to a public meeting to be held on  
74 November 15, 2024. This e-poll was approved by Jennifer Webster, Kirby Metoxen, Jonas Hill,  
75 Jameson Wilson, and Marlon Skenandore.
- 76     ▪ On October 16, 2024, the Legislative Operating Committee entered into the record the results of  
77 the October 2, 2024, e-poll entitled, *Approval of the Canceled October 2, 2024 LOC Meeting*  
78 *Materials*.
- 79     ▪ On November 15, 2024, a public meeting on the proposed amendments to the Law was held. Five  
80 (5) individuals provided comments during the public meeting.
- 81     ▪ The public comment period was then held open until November 22, 2024. Two (2) individuals  
82 provided written comments during the public comment period.
- 83     ▪ On December 4, 2024, the Legislative Operating Committee accepted the public comments and the  
84 public comment review memorandum and deferred these items to a work meeting for further  
85 consideration. The Legislative Operating Committee reviewed and considered the public comments  
86 received that same day.
- 87     ▪ On December 18, 2024, the Legislative Operating Committee approved the updated public  
88 comment review memorandum, draft, and legislative analysis for the proposed amendments to the

89 Oneida Life Insurance Plan law, and approved the fiscal impact statement request memorandum  
90 and forwarded the materials to the Finance Department directing that a fiscal impact statement be  
91 prepared and submitted to the LOC by January 9, 2025.

92 ■ On December 27, 2024, the Finance Administration provided the Legislative Operating Committee  
93 with the fiscal impact statement.

94 **B.** At the time this legislative analysis was developed the following work meetings had been held  
95 regarding the development of the amendments to this Law:

96 ■ August 26, 2024: LOC work session with the Oneida Law Office, Finance Administration, Oneida  
97 Trust Enrollments Department, and Central Accounting.

98 ■ August 29, 2024: LOC work session.

99 ■ December 4, 2024: LOC work session.

100

## 101 **SECTION 5. CONTENTS OF THE LEGISLATION**

102 **A. Appeals.** The proposed amendments to the Law add in a new section that addresses appeals. The Law  
103 now provides that an individual designated as the beneficiary of a decedent who believes they were  
104 wrongfully denied benefits from the Oneida Life Insurance Plan by the Oneida Trust Enrollment  
105 Department may appeal the denial of benefits to the Oneida Trust Enrollment Committee, and  
106 subsequently any decision made by the Oneida Trust Enrollment Committee regarding the validity of  
107 the denial of benefits is final. [10 O.C. 1004.9-1].

108 ■ *Effect.* Although the Legislative Operating Committee is confident in the Oneida Trust Enrollment  
109 Department's ability to oversee and manage the Oneida Life Insurance Plan in accordance with this  
110 law, they wanted to ensure individuals who believe they were wrongfully denied benefits have a  
111 mechanism to have that decision reviewed.

112

## 113 **SECTION 6. EXISTING LEGISLATION**

114 **A. Related Legislation.** The following laws of the Nation are related to this Law:

115 ■ *Oneida General Welfare Law.* The Oneida General Welfare Law governs how the Nation provides  
116 assistance to eligible members on a non-taxable basis, pursuant to the principles of the General  
117 Welfare Exclusion to Indian Tribal governmental programs that provide benefits to Tribal  
118 members. [10 O.C. 1001.1-1].

119 ■ The Oneida Life Insurance Plan is hereby established as an approved program of the Nation in  
120 accordance with the Oneida General Welfare Law. [10 O.C. 1003.4-1]. The Oneida Life  
121 Insurance Plan meets the requirements of the General Test as defined in the Oneida General  
122 Welfare Law. [10 O.C. 1003.4-2].

123 ■ *Administrative Rulemaking Law.* The Administrative Rulemaking law provides an efficient,  
124 effective, and democratic process for enacting and revising administrative rules, to ensure that  
125 authorized agencies act in a responsible and consistent manner when enacting and revising  
126 administrative rules. [1 O.C. 106.1-2].

127 ■ The Oneida Life Insurance Plan law delegates rulemaking authority to the Oneida Trust  
128 Enrollment Department to promulgate rules to govern the administration of the Oneida Life  
129 Insurance Plan. [10 O.C. 1004.8-1].

130 ■ Any rules promulgated by the Oneida Trust Enrollment Department must be done in accordance  
131 with the process and procedures of the Administrative Rulemaking law.

132

133 **SECTION 7. OTHER CONSIDERATIONS**

134 A. *Fiscal Impact.* Under the Legislative Procedures Act, a fiscal impact statement is required for all  
135 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-  
136 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*  
137 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete  
138 a fiscal impact statement at various stages of the legislative process, as well as timeframes for  
139 completing the fiscal impact statement.

140 ■ *Conclusion.* On December 27, 2024, the Finance Administration provided the Legislative  
141 Operating Committee with a fiscal impact statement.

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**Title 10. General Welfare Exclusion - Chapter 1004**  
**ONEIDA LIFE INSURANCE PLAN**

~~1004.1. Purpose and Policy~~~~1004.2. Adoption, Amendment, Repeal~~~~1004.3. Definitions~~~~1004.4. Establishment~~~~1004.4. Establishment~~~~1004.5. Qualifications, Designation of Beneficiary, and Notice~~~~1004.6. Beneficiary Claim Process and Distribution~~~~1004.7. Funding~~~~1004.8. Administrative Rulemaking~~~~1004.9. Appeals~~~~1004.5. Qualifications, Designation of Beneficiary, and Notice~~~~1004.6. Beneficiary Claim Process and Distribution~~~~1004.7. Funding~~~~1004.8. Administrative Rulemaking~~~~1004.1. Purpose and Policy~~~~1004.2. Adoption, Amendment, Repeal~~~~1004.3. Definitions~~**1004.1. Purpose and Policy**

1004.1-1. *Purpose.* The purpose of this law is to provide a death benefit through the Oneida Life Insurance Plan (OLIPP) for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law.

(a) The General Tribal Council, through resolution GTC-01-17-09-B, approved the concept of the Oneida Life Insurance Plan Plus to replace the Oneida Burial Fund. The General Tribal Council directed implementation of a benefit that pays fifteen thousand dollars (\$15,000) to the designated beneficiary or beneficiaries of the deceased Oneida Nation member. The payment of death benefits through OLIPP to designated beneficiaries of a deceased Oneida Nation member is an exercise of self-governance crucial to the Oneida Nation's sovereignty, and health and welfare of the community.

1004.1-2. *Policy.* It is the policy of the Nation to care for its members and their families even after their death. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure equitable and expedient distribution to designated beneficiaries.

**1004.2. Adoption, Amendment, Repeal**

1004.2-1. This law was adopted by the Oneida Business Committee by resolution BC-08-23-23-G- ~~and amended by resolution BC- - - - .~~

1004.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1004.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

1004.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

1004.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**1004.3. Definitions**

1004.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Approved program" means any program(s) to provide general welfare assistance that is intended to qualify as a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution or law of the Nation in accordance with the Oneida General Welfare law.

(b) "Benefit" means the fifteen thousand dollars provided (\$15,000) to pay for funeral expenses of an enrolled member of the Nation, with any residual amounts paid thereafter

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37 to the designated beneficiary.

38 (c) “Decedent” means the deceased person.

39 (d) “Designated Beneficiary” means any person(s) designated by the enrolled member of  
40 the Nation, through the approved beneficiary designation form, to receive all or a portion  
41 of the decedent’s Oneida Life Insurance Plan benefit.

42 (e) “Funeral Expenses” means the cost of the funeral of the decedent accrued and invoiced  
43 by the funeral home including, but not limited to, the following:

- 44 (1) funeral planning;
- 45 (2) securing the necessary permits and copies of death certificates;
- 46 (3) preparing the notices;
- 47 (4) sheltering the remains;
- 48 (5) coordinating the arrangements with the cemetery, crematory or other third  
49 parties;
- 50 (6) transporting the remains;
- 51 (7) embalming and other preparation;
- 52 (8) viewing, ceremony, or memorial services;
- 53 (9) use of a hearse or limousine;
- 54 (11) a casket, outer burial container or alternate container;
- 55 (11) monuments; and
- 56 (12) cremation or interment.

57 (f) “Nation” means the Oneida Nation.

58  
59 **1004.4. Establishment**

60 1004.4-1. *Establishment.* The Oneida Life Insurance Plan is hereby established as an approved  
61 program of the Nation in accordance with the Oneida General Welfare law. The purpose of the  
62 Oneida Life Insurance Plan is to provide fifteen thousand dollars (\$15,000) of financial assistance  
63 to eligible members of the Nation to pay for funeral expenses, with any residual benefit amounts  
64 paid thereafter to the designated beneficiary.

65 1004.4-2. *General Welfare Exclusion.* The Oneida Life Insurance Plan meets the requirements of  
66 the General Test as defined in the Oneida General Welfare law; General Criteria as defined in  
67 I.R.S. Rev. Proc. 2014-35. Section 5.01(1); and the requirements of the Tribal General Welfare  
68 Exclusion Act of 2014, 26 U.S.C. §139E(b).

69 (a) The assistance provided through the Oneida Life Insurance Plan is:

- 70 (1) paid on behalf of the Nation;
- 71 (2) pursuant to an approved program of the Nation;
- 72 (3) does not discriminate in favor of members of the governing body of the Nation;
- 73 (4) available to any eligible member of the Nation who meets the guidelines of the  
74 approved program;
- 75 (5) provided for the promotion of general welfare;
- 76 (6) not lavish or extravagant;
- 77 (7) not compensation for services; and
- 78 (8) not a per capita payment.

79 (b) . I.R.S. Rev. Proc. 2014-35, section 5.02(2)(e)(iv) lists funeral, burial, and expenses  
80 related to a death as Safe Harbor program for which need is presumed.

81

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2025 01 1582 **1004.5. Qualifications, Designation of Beneficiary, and Notice**

83 1004.5-1. *Eligibility.* All members of the Nation shall qualify for benefits from the Oneida Life  
84 Insurance Plan to be used for funeral expenses first, with any residual benefits distributed to a  
85 designated beneficiary.

86 (a) Newly enrolled members of the Nation shall be covered the date their enrollment  
87 application is approved by Oneida Trust Enrollment Committee and Oneida Business  
88 Committee.

89 (b) Members of the Nation that have relinquished their membership shall not be covered  
90 from the date their relinquishment request is approved by the Oneida Trust Enrollment  
91 Committee and Oneida Business Committee.

92 1004.5-2. *Designation of Beneficiary.* A member of the Nation shall complete the Oneida Trust  
93 Enrollment Committee approved beneficiary designation form and submit it to the Oneida Trust  
94 Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to  
95 their death in order to secure benefits from the Oneida Life Insurance Plan for their beneficiary.

96 (a) Any Oneida Life Insurance Plan beneficiary designation forms submitted prior to the  
97 effective date of this law shall remain valid.

98 (b) Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent  
99 did not designate a living beneficiary though the beneficiary designation form.

100 (c) A parent or legal guardian shall complete and submit a beneficiary designation form  
101 on behalf of their minor child or ward.

102 (d) Funeral expenses shall be paid directly to the funeral home upon submission of a valid  
103 invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated  
104 beneficiary has not been designated.

105 1004.5-3. *Notice of Death.* The Oneida Trust Enrollment Department shall be notified within one  
106 (1) year of the member of the Nation's death in order to distribute the Oneida Life Insurance Plan  
107 benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary  
108 of the decedent's death shall not be processed for distribution.

109 1004.5-4. *Oversight.* The Oneida Trust Enrollment Department shall be delegated the oversight  
110 and management of the Oneida Life Insurance Plan.

111

112 **1004.6. Beneficiary Claim Process and Distribution**

113 1004.6-1. *Evidence as to Passing or Status.* In proceedings under this law, the following rules  
114 relating to determination of death and status are applicable:

115 (a) A certified or authenticated copy of a death certificate purporting to be issued by an  
116 official or agency of the place where the death purportedly occurred is prima facie proof  
117 of the fact, place, date and time of death, and the identity of the decedent;

118 (b) A certified or authenticated copy of any record or report of a governmental agency,  
119 domestic or foreign, of a decedent's death; and

120 (c) A person who is absent for a continuous period of seven (7) years, during which they  
121 have not been heard from, and whose absence is not satisfactorily explained after diligent  
122 search or inquiry is presumed to be dead. Their death is presumed to have occurred at the  
123 end of the period unless there is sufficient evidence for determining that death occurred  
124 earlier.

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2025 01 15

125 1004.6-2. *Effect of Homicide on Beneficiary Designation.* A designated beneficiary who  
 126 criminally and intentionally causes the death of the decedent shall not be entitled to any benefits  
 127 passing under this law.

128 1004.6-3. *Distribution.* Oneida Life Insurance Plan benefits shall be distributed in the following  
 129 order:

130 (a) Funeral expenses shall be paid to the funeral home pursuant to receipt of a valid  
 131 invoice therefrom;

132 (1) Any expenses beyond the funeral expenses shall be the responsibility of the  
 133 beneficiary, family of the decedent, or any other responsible parties.

134 (b) Residual benefits shall be paid to the designated beneficiary.  
 135

### 136 **1004.7. Funding**

137 1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding by the  
 138 Nation.  
 139

### 140 **1004.8. Administrative Rulemaking**

141 1004.8-1. *Delegation of Administrative Rulemaking Authority.* The Oneida Trust Enrollment  
 142 Department shall be delegated administrative rulemaking authority in accordance with the  
 143 Administrative Rulemaking law to promulgate rules to govern the administration of the Oneida  
 144 Life Insurance Plan.  
 145

### 146 **1004.9. Appeals**

147 1004.9-1. An individual designated as the beneficiary of a decedent who believes they were  
 148 wrongfully denied benefits from the Oneida Life Insurance Plan by the Oneida Trust Enrollment  
 149 Department may appeal the denial of benefits to the Oneida Trust Enrollment Committee. Any  
 150 decision made by the Oneida Trust Enrollment Committee regarding the validity of the denial of  
 151 benefits is final.  
 152

153 *End.*  
 154

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156 Emergency Adopted – BC-09-28-22-C

157 Emergency Extension – BC-03-22-23-C

158 Adopted – BC-08-23-23-G

159 Amended – BC- - - -

**Title 10. General Welfare Exclusion - Chapter 1004**  
**ONEIDA LIFE INSURANCE PLAN**

1004.1. Purpose and Policy  
1004.2. Adoption, Amendment, Repeal  
1004.3. Definitions  
1004.4. Establishment  
1004.5. Qualifications, Designation of Beneficiary, and Notice

1004.6. Beneficiary Claim Process and Distribution  
1004.7. Funding  
1004.8. Administrative Rulemaking  
1004.9. Appeals

---

1 **1004.1. Purpose and Policy**

2 1004.1-1. *Purpose.* The purpose of this law is to provide a death benefit through the Oneida Life  
3 Insurance Plan (OLIPP) for all eligible enrolled Oneida Nation members, pursuant to the Oneida  
4 General Welfare law.

5 (a) The General Tribal Council, through resolution GTC-01-17-09-B, approved the  
6 concept of the Oneida Life Insurance Plan Plus to replace the Oneida Burial Fund. The  
7 General Tribal Council directed implementation of a benefit that pays fifteen thousand  
8 dollars (\$15,000) to the designated beneficiary or beneficiaries of the deceased Oneida  
9 Nation member. The payment of death benefits through OLIPP to designated beneficiaries  
10 of a deceased Oneida Nation member is an exercise of self-governance crucial to the  
11 Oneida Nation’s sovereignty, and health and welfare of the community.

12 1004.1-2. *Policy.* It is the policy of the Nation to care for its members and their families even  
13 after their death. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure  
14 equitable and expedient distribution to designated beneficiaries.

15  
16 **1004.2. Adoption, Amendment, Repeal**

17 1004.2-1. This law was adopted by the Oneida Business Committee by resolution BC-08-23-23-  
18 G and amended by resolution BC-\_\_-\_\_-\_\_-\_\_.

19 1004.2-2. This law may be amended or repealed by the Oneida Business Committee or the General  
20 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

21 1004.2-3. Should a provision of this law or the application thereof to any person or circumstances  
22 be held as invalid, such invalidity shall not affect other provisions of this law which are considered  
23 to have legal force without the invalid portions.

24 1004.2-4. In the event of a conflict between a provision of this law and a provision of another law,  
25 the provisions of this law shall control.

26 1004.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.  
27

28 **1004.3. Definitions**

29 1004.3-1. This section shall govern the definitions of words and phrases used within this law. All  
30 words not defined herein shall be used in their ordinary and everyday sense.

31 (a) "Approved program" means any program(s) to provide general welfare assistance that  
32 is intended to qualify as a General Welfare Exclusion, administered under specific  
33 guidelines, and is adopted by the Oneida Business Committee through resolution or law of  
34 the Nation in accordance with the Oneida General Welfare law.

35 (b) "Benefit" means the fifteen thousand dollars provided (\$15,000) to pay for funeral  
36 expenses of an enrolled member of the Nation, with any residual amounts paid thereafter  
37 to the designated beneficiary.

38 (c) "Decedent" means the deceased person.

39 (d) "Designated Beneficiary" means any person(s) designated by the enrolled member of  
40 the Nation, through the approved beneficiary designation form, to receive all or a portion

41 of the decedent's Oneida Life Insurance Plan benefit.

42 (e) "Funeral Expenses" means the cost of the funeral of the decedent accrued and invoiced  
43 by the funeral home including, but not limited to, the following:

- 44 (1) funeral planning;
- 45 (2) securing the necessary permits and copies of death certificates;
- 46 (3) preparing the notices;
- 47 (4) sheltering the remains;
- 48 (5) coordinating the arrangements with the cemetery, crematory or other third  
49 parties;
- 50 (6) transporting the remains;
- 51 (7) embalming and other preparation;
- 52 (8) viewing, ceremony, or memorial services;
- 53 (9) use of a hearse or limousine;
- 54 (11) a casket, outer burial container or alternate container;
- 55 (11) monuments; and
- 56 (12) cremation or interment.

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60 program of the Nation in accordance with the Oneida General Welfare law. The purpose of the  
61 Oneida Life Insurance Plan is to provide fifteen thousand dollars (\$15,000) of financial assistance  
62 to eligible members of the Nation to pay for funeral expenses, with any residual benefit amounts  
63 paid thereafter to the designated beneficiary.

64 1004.4-2. *General Welfare Exclusion.* The Oneida Life Insurance Plan meets the requirements of  
65 the General Test as defined in the Oneida General Welfare law; General Criteria as defined in  
66 I.R.S. Rev. Proc. 2014-35. Section 5.01(1); and the requirements of the Tribal General Welfare  
67 Exclusion Act of 2014, 26 U.S.C. §139E(b).

68 (a) The assistance provided through the Oneida Life Insurance Plan is:

- 69 (1) paid on behalf of the Nation;
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73 approved program;
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- 75 (6) not lavish or extravagant;
- 76 (7) not compensation for services; and
- 77 (8) not a per capita payment.

78 (b) . I.R.S. Rev. Proc. 2014-35, section 5.02(2)(e)(iv) lists funeral, burial, and expenses  
79 related to a death as Safe Harbor program for which need is presumed.  
80

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84 designated beneficiary.  
85

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86 (a) Newly enrolled members of the Nation shall be covered the date their enrollment  
87 application is approved by Oneida Trust Enrollment Committee and Oneida Business  
88 Committee.

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90 from the date their relinquishment request is approved by the Oneida Trust Enrollment  
91 Committee and Oneida Business Committee.

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94 Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to  
95 their death in order to secure benefits from the Oneida Life Insurance Plan for their beneficiary.

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97 effective date of this law shall remain valid.

98 (b) Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent  
99 did not designate a living beneficiary though the beneficiary designation form.

100 (c) A parent or legal guardian shall complete and submit a beneficiary designation form  
101 on behalf of their minor child or ward.

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103 invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated  
104 beneficiary has not been designated.

105 1004.5-3. *Notice of Death.* The Oneida Trust Enrollment Department shall be notified within one  
106 (1) year of the member of the Nation's death in order to distribute the Oneida Life Insurance Plan  
107 benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary  
108 of the decedent's death shall not be processed for distribution.

109 1004.5-4. *Oversight.* The Oneida Trust Enrollment Department shall be delegated the oversight  
110 and management of the Oneida Life Insurance Plan.

111

## 112 **1004.6. Beneficiary Claim Process and Distribution**

113 1004.6-1. *Evidence as to Passing or Status.* In proceedings under this law, the following rules  
114 relating to determination of death and status are applicable:

115 (a) A certified or authenticated copy of a death certificate purporting to be issued by an  
116 official or agency of the place where the death purportedly occurred is prima facie proof  
117 of the fact, place, date and time of death, and the identity of the decedent;

118 (b) A certified or authenticated copy of any record or report of a governmental agency,  
119 domestic or foreign, of a decedent's death; and

120 (c) A person who is absent for a continuous period of seven (7) years, during which they  
121 have not been heard from, and whose absence is not satisfactorily explained after diligent  
122 search or inquiry is presumed to be dead. Their death is presumed to have occurred at the  
123 end of the period unless there is sufficient evidence for determining that death occurred  
124 earlier.

125 1004.6-2. *Effect of Homicide on Beneficiary Designation.* A designated beneficiary who  
126 criminally and intentionally causes the death of the decedent shall not be entitled to any benefits  
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129 order:

Draft 2 for OBC Consideration

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 131 invoice therefrom;

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 133 beneficiary, family of the decedent, or any other responsible parties.

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 135

136 **1004.7. Funding**

137 1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding by the  
 138 Nation.  
 139

140 **1004.8. Administrative Rulemaking**

141 1004.8-1. *Delegation of Administrative Rulemaking Authority.* The Oneida Trust Enrollment  
 142 Department shall be delegated administrative rulemaking authority in accordance with the  
 143 Administrative Rulemaking law to promulgate rules to govern the administration of the Oneida  
 144 Life Insurance Plan.  
 145

146 **1004.9. Appeals**

147 1004.9-1. An individual designated as the beneficiary of a decedent who believes they were  
 148 wrongfully denied benefits from the Oneida Life Insurance Plan by the Oneida Trust Enrollment  
 149 Department may appeal the denial of benefits to the Oneida Trust Enrollment Committee. Any  
 150 decision made by the Oneida Trust Enrollment Committee regarding the validity of the denial of  
 151 benefits is final.  
 152

153 *End.*  
 154

---

156 Emergency Adopted – BC-09-28-22-C

157 Emergency Extension – BC-03-22-23-C

158 Adopted – BC-08-23-23-G

159 Amended – BC-\_\_-\_\_-\_\_-\_\_





# MEMORANDUM

TO: RaLinda Ninham-Lamberies, Chief Financial Officer  
 FROM: Rae Skenandore, Senior Analyst/Budget Coordinator  
 DATE: December 24, 2024  
 RE: **Fiscal Impact of the Proposed Amendment to the Oneida Life Insurance Plan Law**

## I. Estimated Fiscal Impact Summary

|  |  |                         |
|--|--|-------------------------|
| <b>Law:</b> Amendments to the Oneida Life Insurance Plan Law |  | Draft 2                 |
| <b>Implementing Agency</b>                                   | Oneida Trust Enrollment Department                         |                         |
| <b>Estimated time to comply</b>                              | 10 days, in compliance with the Legislative Procedures Act |                         |
| <b>Estimated Impact</b>                                      | <b>Current Fiscal Year</b>                                 | <b>10 Year Estimate</b> |
| <b>Total Estimated Fiscal Impact</b>                         | No Fiscal Impact   | No Fiscal Impact        |

## II. Background

This Law was originally adopted by the Oneida Business Committee on August 23<sup>rd</sup> of 2023 through resolution BC-08-23-23-G. The purpose of the law is to provide a death to all eligible enrolled Oneida Nation members. It is the policy of the Nation to care for its members and their families even after their death.

According to the Legislative Reference Office (LRO), the proposed amendments to the law are based on the one-year review and include the following.

- Include an appeal section.

### **III. Methodology and Assumptions**

A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

### **IV. Findings**

The OLIP process was internalized in 2023. There are no added start-up costs, no increases in personnel are needed, and no increases in office or documentation costs. The law can be implemented in 10 days, in compliance with the Legislative Procedures Act

### **V. Financial Impact**

There is no additional fiscal impact of implementing this legislation.

### **VI. Recommendation**

Finance does not make a recommendation about a course of action in this matter. Rather, it is the purpose of this analysis to disclose the potential fiscal impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.



Legislative Operating Committee  
January 15, 2025

# Petition: S. Benton -Move ONAP under Tourism or Community Development

Submission Date: 12/18/24

LOC Sponsor: Kirby Metoxen

**Summary:** *On November 22, 2024, the Petition S. Benton – Move Oneida Nation Art Program under Tourism or Community Development was submitted. On November 25, 2024, the Oneida Trust Enrollment Department verified the signatures for the Petition. The Oneida Business Committee acknowledged receipt of this Petition on December 11, 2024. This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following: Move the Oneida Natin Arts Program (ONAP) along with its budget, assets, and infrastructure from the Human Services Division to either the Tourism or Community Development. ONAP isn't as social service program. By integrating ONAP into the Community Development or Tourism Division, we can create a more vibrant, economically robust, and attractive region for both residents and visitors. Currently, ONAP is understaffed. By moving ONAP into a different division, there would be better administrative support, shared resources, sand partnerships, so ONAP could operate more efficiently and cost-effectively. ONAP has the potential to develop professional artists, improve quality of life, boost our local tourism economy, and establish our region as a cultural destination for tourists and in turn boost our tourism economy. ONAP also has the potential to spearhead the development of an “arts district” that would feature public spaces for the arts such as exhibition and gallery spaces, performance venues, and public art installations like murals, sculptures, and arts related special events.*

**12/11/24 OBC:** Motion by Lawrence Barton to acknowledge receipt of the petition from Sherrole Benton regarding Move Oneida Nation Arts Program under Tourism or Community Development; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Thursday, January 2, 2025; and to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the January 22, 2025, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Kirby Metoxen. Motion carried.

**12/18/24 LOC:** Motion by Jonas Hill to add the Petition S. Benton – Move Oneida Nation Arts Program under Tourism or Community Development to the Active Files List with Kirby Metoxen as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

**Next Steps:**

- Accept the statement of effect for the Petition: S. Benton – Move Oneida Nation Art Program under Tourism or Community Development and forward to the Oneida Business Committee.



## Statement of Effect

*Petition: S. Benton -Move ONAP under Tourism or Community Development*

### Summary

This petition requests the General Tribal Council to consider moving the Oneida Nation Arts Program along with its budget, assets, and infrastructure from the Human Services Division to either the Tourism or Community Development.

*Submitted by: Clorissa N. Leeman, Senior Staff Attorney, Legislative Reference Office*

*Date: January 15, 2025*

### *Analysis by the Legislative Reference Office*

On November 22, 2024, the Petition: S. Benton – Move Oneida Nation Art Program under Tourism or Community Development (“the Petition”) was submitted to the Government Administrative Office by Sherrole Benton and has since been verified by the Oneida Trust Enrollment Department on November 25, 2024. On December 11, 2024, the Oneida Business Committee acknowledged receipt of the Petition and directed the Oneida Business Committee Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by January 2, 2024. On December 18, 2024, the Legislative Operating Committee added the Petition to the Active Files List to be worked on by the Legislative Reference Office. The Legislative Reference Office currently is working on the development of the statement of effect for this Petition.

The purpose of this Petition is to call a special meeting of the General Tribal Council to consider the following:

*Move the Oneida Nation Arts Program (ONAP) along with its budget, assets, and infrastructure from the Human Services Division to either the Tourism or Community Development. ONAP isn't as social service program. By integrating ONAP into the Community Development or Tourism Division, we can create a more vibrant, economically robust, and attractive region for both residents and visitors. Currently, ONAP is understaffed. By moving ONAP into a different division, there would be better administrative support, shared resources, sand partnerships, so ONAP could operate more efficiently and cost-effectively. ONAP has the potential to develop professional artists, improve quality of life, boost our local tourism economy, and establish our region as a cultural destination for tourists and in turn*

*boost our tourism economy. ONAP also has the potential to spearhead the development of an “arts district” that would feature public spaces for the arts such as exhibition and gallery spaces, performance venues, and public art installations like murals, sculptures, and arts related special events.*

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

The Petition’s directive that the Oneida Nation Arts Program’s placement within the Nation’s organization be moved would not have any impacts on legislation of the Nation. There are no laws of the Nation that govern how the Nation organizes its various programs. The Oneida Nation Arts Program – Dollar for Arts Project Policies does reference the Oneida Nation Arts Program, but only in regard to its responsibilities for the Dollars for Arts Project Awards and Fellowships, and not in regard to its placement within the Nation’s organizational structure. [1 O.C. 128].

### **Conclusion**

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the S. Benton – Move Oneida Nation Art Program under Tourism or Community Development would not result in a legislative impact.

### **Requested Action**

Accept the statement of effect for the Petition: S. Benton – Move Oneida Nation Art Program under Tourism or Community Development.



# HANDOUT

Oneida Nation  
Oneida Business Committee  
Legislative Operating Committee  
365 • Oneida, WI 54155-0365  
Oneida-nsn.gov



Legislative Operating Committee  
January 15, 2025

## Oneida Nation Law Enforcement Ordinance Amendments

|                                 |                               |
|---------------------------------|-------------------------------|
| <b>Submission Date:</b> 9/17/14 | <b>Public Meeting:</b> n/a    |
| <b>LOC Sponsor:</b> Jonas Hill  | <b>Emergency Enacted:</b> n/a |

**Summary:** *This item was carried over from the previous three terms. The item was originally added to the Active Files List per the request of the Oneida Police Department and the Oneida Law Office that clarification be added to the law regarding whether the Nation’s Conservation wardens qualify as sworn officers.*

**9/17/14 LOC:** Motion by Jennifer Webster to add Law Enforcement Ordinance Amendments – Conservation Officers to the Active Files List; seconded by Tehassi Hill. Motion carried unanimously. *Note: Tehassi Hill will be the sponsor for this item.*

**10/10/16:** *Quarterly Sponsor Update Meeting held.* Present: Tehassi Hill, Maureen Perkins, Tani Thurner, Clorissa Santiago, Krystal John. No new updates.

**9/6/17 LOC:** Motion by Jennifer Webster to add Law Enforcement Ordinance Amendments – Conservation Officers to the active files list with Ernie Stevens III as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

**11/1/17 LOC:** Motion by Kirby Metoxen approve the 60-day active files list update and continue development of all the items on the active files list; seconded by Ernie Stevens III. Motion carried unanimously.

**10/7/20 LOC:** Motion by Kirby Metoxen to add the Law Enforcement Ordinance Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

**12/09/21:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Kristal Hill, Rhiannon Metoxen, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to have the LOC review a first draft of amendments to the Oneida Law Enforcement Ordinance. For purposes of efficiency, amendments to the Ordinance should be developed and adopted simultaneous with the ONGO amendments; specifically, as they relate to the transition of the Security Department (as set forth in ONGO) from under the Oneida Police Department to under a Public Safety Commission, which will be created through re-establishment of the Oneida Police Commission via amendments to this Ordinance. The next step is for the drafting attorney to meet with the heads of the Police Department and Conservation Department to discuss the aforementioned transition.

- 12/15/21:** *Work Meeting.* Present: David Jordan, Marie Summers, Daniel Guzman-King, Jennifer Webster, Kristal Hill, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss the meeting scheduled for December 21, 2021 with the heads of the Oneida Police Department and Conservation Department to discuss the transition of the Conservation Department from under the Police Department to under a re-established Oneida Police Commission to be renamed the Public Safety Commission.
- 12/21/21:** *Work Meeting.* Present: David Jordan, Marie Summers, Daniel Guzman-King, Joel Maxam, Eric Boulanger, Shad Webster, Terry Metoxen, Nicole Rommel, Kristal Hill, Rhiannon Metoxen, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss amendments to the Oneida Law Enforcement Ordinance as they relate to the oversight of the Conservation Department. The next step is for the Police Department and Conservation Department to forward their policies/ protocols to the LRO so that it may review them in anticipation of discussing the issue in more depth with the LOC.
- 1/28/22:** *Work Meeting.* Present: Richard VanBoxtel, Jeanette Ninham, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to hear from members of the Oneida Police Commission in regards to the proposal to reorganize the Commission, as well as the Conservation Department, in a manner that better suits the Nation and its members.
- 6/23/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Marie Summers, Clorissa N. Santiago, Carolyn Salutz, Grace Elliott, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to clarify some drafting questions to provide greater direction as to the drafting of potential amendments to the Law.
- 7/6/22:** *Work Meeting.* Present: Kirby Metoxen, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carolyn Salutz, Grace Elliott, Kristal Hill, Eric Boulanger, Joel Maxam. Terry Metoxen, Kelly McAndrews. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to begin discussing potential amendments to the Law.
- 8/3/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carolyn Salutz, Grace Elliott, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss an e-mail received from Attorney Kelly McAndrews providing that the Oneida Law Office and Oneida Police Department no longer support the creation of a Public Safety Commission that would oversee the Security Department in addition to the Police Department.
- 9/19/22:** *Work Meeting.* Present: Kirby Metoxen, Marie Summers, Daniel Guzman King, Jennifer Webster, Clorissa N. Santiago, Carolyn Salutz, Kristal Hill, Eric Boulanger, Joel Maxam, Richard VanBoxtel, Kelly McAndrews, Katsitsiyo Danforth. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss a memorandum from OPD, Law Office, and Security regarding some concerns with including Security within the Law Enforcement Ordinance, as well as additional areas within the Law Enforcement Ordinance that will need amending.
- 9/21/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Marie Cornelius, Daniel Guzman King, Jennifer Webster, Clorissa N. Santiago, Carolyn Salutz, Rhiannon Metoxen, Grace Elliott. This was a work meeting held through Microsoft Teams. The purpose of the meeting



was to follow up on the September 19, 2022, work meeting and make a final determination as to whether to move forward with the development of the Public Safety Commission.

- 10/3/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Marie Cornelius, Daniel Guzman King, Jennifer Webster, Clorissa N. Leeman, Carolyn Salutz, Grace Elliott, Kristal Hill, Katsitsiyo Danforth, Louise Cornelius. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss with the Gaming General Manager, Gaming maintaining some responsibilities over the Security Department even after it moves to under the Public Safety Commission.
- 10/4/23 LOC:** Motion by Jennifer Webster to add the Law Enforcement Ordinance Amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jonas Hill. Motion carried unanimously.
- 3/6/24:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Marlon Skenandore, Jonas Hill, Clorissa Leeman, Kelly McAndrews, Eric Boulanger, Joel Maxam, Brandon Vandehei, Maureen Perkins, Kristal Hill. The purpose of this work meeting was to review the Oneida Nation Law Enforcement Ordinance and discuss potential amendments.
- 3/28/24:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Marlon Skenandore, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Kristal Hill, Grace Elliott, Carolyn Salutz. The purpose of this work meeting was to discuss the removal of “sergeant” from section 301.5-3(d) of the law.
- 4/19/24:** *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Jennifer Webster, Marlon Skenandore, Clorissa Leeman, Kelly McAndrews, Eric Boulanger, Joel Maxam, Brandon Vandehei, Dan Skenandore, Fawn Cottrell, Katsitsiyo Danforth, Maureen Perkins. The purpose of this work meeting was to review the updated draft of the proposed amendments to the Oneida Nation Law Enforcement Ordinance.
- 6/7/24:** *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Jennifer Webster, Kirby Metoxen, Clorissa Leeman, Kelly McAndrews, Eric Boulanger, Brandon Vandehei, Richard VanBoxtel, Katsitsiyo Danforth, Carolyn Salutz, Kristal Hill, Maureen Perkins. The purpose of this work meeting was to review the updated draft of the proposed amendments to the Oneida Nation Law Enforcement Ordinance, and specifically obtain the input of the Oneida Police Commission.
- 7/26/24:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Clorissa Leeman, Maureen Perkins, Richard VanBoxtel, Eric Boulanger. The purpose of this work meeting was to review some final topics in the Oneida Law Enforcement Ordinance draft – particularly looking at section 301.6-4 so we can have some discussion on what responsibilities the Commission should have over the Department so it best reflects current practice.
- 9/4/24 LOC:** Motion by Jonas Hill to approve the draft of the proposed amendments to the Oneida Law Enforcement Ordinance and direct that a legislative analysis be completed; seconded by Kirby Metoxen. Motion carried unanimously.
- 9/4/24:** *OBC Officers Meeting.* Present: Jameson Wilson, Jonas Hill, Clorissa Leeman, Lisa Liggins, Lisa Summers, Lawrence Barton, Danelle White, Tehassi Hill, Brandon Yellowbird-Stevens. Members of the LOC were called into the OBC Officers’ meeting to discuss the progress of the Oneida Law Enforcement Ordinance amendments and the future placement of the Internal Security Department. Some Officers expressed concern with placing the Internal Security Department under the future Oneida Public Safety and Security Commission and asked for reconsideration of the idea to place the Internal Security Department under the Gaming General Manager. The LOC provided they would take this into consideration.

**9/4/24:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Kirby Metoxen, Marlon Skenandore, Clorissa Leeman, Carolyn Salutz, Fawn Cottrell, Kristal Hill, Maureen Perkins, Fawn Billie. The purpose of this work session was to consider the request made from the OBC Officers. LOC decided to hold one more work session with the larger work group to consider the Officers' request for reconsideration of the placement of the Internal Security Department under the Gaming General Manager.

**10/8/24:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Kirby Metoxen, Marlon Skenandore, Clorissa Leeman, Eric Boulanger, Joel Maxam, Kristal Hill, Maureen Perkins, Reynold Danforth, Katsitsiyo Danforth, Mark Powless, Jeremy King, Fawn Cottrell, Michelle Braaten. The purpose of this work meeting was to have one final discussion on the placement of the Internal Security Department with the broader work team before the draft of the proposed amendments to the Oneida Law Enforcement Ordinance continues moving through the legislative process.

**10/9/24:** *Phone Call.* Present: Clorissa Leeman, Kelly McAndrews. The purpose of this phone call was to collect Attorney Kelly McAndrew's insight on the placement of the Internal Security Department, since she was unable to attend the work meeting yesterday.

**10/18/24:** *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Clorissa Leeman, Grace Elliott, Kristal Hill, Maureen Perkins, Fawn Cottrell, Fawn Billie. The purpose of this work meeting was to discuss the placement of the Internal Security Department after the information collected during out last work meeting.

**10/24/24:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Grace Elliott, Carolyn Salutz, Maureen Perkins, Kristal Hill, Fawn Cottrell. The purpose of this work meeting was to discuss and make a decision as to where the Internal Security Department should be placed within the organization, and if any changes to the proposed amendments to the law need to be developed.

### **Next Steps:**

- Approve the updated draft and legislative analysis for the Oneida Nation Law Enforcement Ordinance amendments.

**Title 3. Health and Public Safety – Chapter 301**  
**Shakotiye'nás Olihwáke**  
*The Matters of Those Who Protect Us*  
**LAW ENFORCEMENT**

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| #  |
| 301.1-1 Purpose and Policy                           |
| 301.2-1 Adoption, Amendment, Repeal                  |
| 301.3-1 Definitions                                  |
| 301.4-1 General Principles                           |
| 301.5-1 Oneida Police Department                     |
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| 301.7-1 Appointment of Law Enforcement Officers |
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| 301.11-1 Firearms Control                       |

**301.1. Purpose and Policy**

301.1-1. *Purpose.* The purpose of this law is to regulate the conduct of the Nation’s law enforcement personnel according to the highest professional standards.

301.1-2. *Policy.* It is the policy of the Nation to ensure that ~~the~~ law enforcement personnel ~~operates~~operate at the highest level of professional standards to ensure the safety and welfare of the community.

**301.2. Adoption, Amendment, Repeal**

301.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-10-01-C and amended by resolution BC-02-25-15-C and BC-\_\_-\_\_-\_\_-\_\_.

301.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

301.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

301.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

301.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**301.3. Definitions**

301.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Certified law enforcement officer” means a sworn officer who meets all qualifications for law enforcement officer, including accepted professional training and experience, State of Wisconsin Certification or eligibility for Certification which includes but is not limited to, satisfactory background investigation, psychological evaluation, drug testing, and police firearms certification.

(b) “Commissioner” shall mean a member of the Oneida Public Safety and Security Commission.

~~(c) “Deadly force” means the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.~~

~~(d)~~(c) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was

established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by

50 Oneida General Tribal Council resolution GTC-03-19-17.

51 (ed) “Nation” means the Oneida Nation.

52 (fe) “Non-sworn personnel” means an individual employed with the Oneida Police  
53 Department that does not meet the qualifications for a certified law enforcement officer.

54 (gf) “Oneida Public Safety and Security Commission” means the entity made up of those  
55 individuals appointed by the Oneida Business Committee to provide oversight regarding  
56 the activities and actions of public safety and security operations throughout the  
57 Reservation.

58 (hg) “Police supervisor” means a law enforcement officer who holds the rank of  
59 Sergeant or above.

60 (ih) “Reservation” means all land within the exterior boundaries of the Reservation of the  
61 Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any  
62 lands added thereto pursuant to federal law.

### 63 64 **301.4. General Principles**

65 301.4-1. All law enforcement operations of the Nation shall be conducted in accordance with this  
66 law.

67 301.4-2. Law enforcement operations shall take place on and within the Reservation, unless:

68 (a) there is a potential that the safety and welfare of an individual is being compromised;

69 (b) the law enforcement operations occur pursuant to mutual aid agreements with local  
70 governments; or

71 (c) the law enforcement operations occur pursuant to any other jurisdictional exception.

72 301.4-3. Law enforcement operations shall be used primarily for the purposes of providing law  
73 enforcement within the Nation and to provide mutual assistance or aid to external law enforcement  
74 services offered by local governments within the Oneida community by powers set forth in section  
75 301.4 of this law, Article IV section 1(f) of the Constitution and By-Laws of the Oneida Nation,  
76 and as set forth in compacts and agreements authorized by the Oneida Business Committee or  
77 General Tribal Council.

78 301.4-4. The Nation shall appoint and employ law enforcement personnel within its boundaries  
79 as it deems necessary for the purpose of detecting and preventing crime and enforcing the laws of  
80 the Nation, in addition to protection of persons, property, and premises.

81 301.4-5. The Oneida Police Department may, as authorized and delegated by this law and the  
82 Oneida Business Committee or General Tribal Council, enter into cross-deputization and other law  
83 enforcement agreements with other jurisdictions.

### 84 85 **301.5. Oneida Police Department**

86 301.5-1. There is hereby established an Oneida Police Department which is delegated all law  
87 enforcement authority of the Nation. The Oneida Police Department may create divisions of  
88 operation as may be deemed appropriate.

89 (a) *Oneida Police Department Position Restrictions.* All positions and appointments of  
90 the Oneida Police Department shall be subject to Indian preference in hiring, except that  
91 the following positions shall be held only by members of the Nation:

92 (1) Police Chief;

93 (2) Assistant Police Chief; and

94 (3) Police Lieutenant.

95 301.5-2. *Oneida Police Chief.* The Oneida Police Department shall be headed by a Police Chief,

96 appointed pursuant to this law.

97 (a) The Police Chief shall have authority over departmental personnel and operations,  
98 subject to the authority of the Oneida Public Safety and Security Commission.

99 (b) *Qualifications and Process for Appointment as Police Chief.*

100 (1) The recruitment and hiring process for Police Chief shall be conducted by the  
101 Oneida Public Safety and Security Commission, with assistance, as needed, by the  
102 Human Resources Department.

103 (2) No person shall be accepted as a candidate or be eligible to serve as Police  
104 Chief who does not meet the following qualifications:

105 (A) Current certification in the State of Wisconsin as a law enforcement  
106 officer or upon approval from the applicable State of Wisconsin Standards  
107 Board;

108 (B) Member of the Nation;

109 (C) A minimum of five (5) years creditable service as a sworn law  
110 enforcement officer for a state, tribal, local, or federal government, with  
111 preference for:

112 (i) those who have at least an associate degree in police science,  
113 criminal justice or similar field, or a bachelor's degree in a related  
114 subject; and

115 (ii) those with successful supervisory experience;

116 (D) Current satisfactory background investigation completed by a law  
117 enforcement agency selected by the Oneida Public Safety and Security  
118 Commission with results of the investigation reported directly to the Oneida  
119 Public Safety and Security Commission;

120 (E) Current satisfactory psychological examination report;

121 (F) Current satisfactory medical examination report;

122 (G) Current drug test with negative results for controlled substances; and

123 (H) Any other minimum requirement as provided for in the job description.

124 (3) Examinations, interviews, further selection criteria and other processes utilized  
125 in the hiring process of a Police Chief shall be at the discretion of the Oneida Public  
126 Safety and Security Commission,

127 (4) Upon accepting notification of retirement, resignation, or the removal of a  
128 current Police Chief, the Oneida Public Safety and Security Commission shall  
129 appoint an interim or acting Police Chief who shall serve in said capacity until the  
130 process for appointment of a new Police Chief can be completed.

131 301.5-3. *Law Enforcement Officers.*

132 (a) *Educational Requirements.* All persons shall meet the following minimum education  
133 requirements within five (5) years of their hire date:

134 (1) Possess a two (2) year associate degree from an accredited vocational,  
135 technical, or adult education district; or

136 (2) Possess documentation in the form of an official transcript showing a minimum  
137 of sixty (60) fully accredited college level credits; or

138 (3) Possess a bachelors degree from accredited college or university.

139 (b) *Conditional Employment.* Any person who is not a certified law enforcement officer  
140 at the time of hire, is considered a conditional employee and shall attain the educational  
141 requirements as specified in section 301.5-3(a), within five (5) years of their date of hire.

142 (1) Conditional employees are not eligible for promotion.

143 (2) Law enforcement officers who fail to attain the educational requirements within  
144 five (5) years of their date of hire shall be subject to immediate termination.

145 (c) *Educational Requirement for Police Supervisors.* Upon enactment of this law, no law  
146 enforcement officer may be considered eligible for promotion to supervisor until the  
147 educational requirements of section 301.5-3(a) have been satisfied. Law enforcement  
148 officers promoted prior to the enactment of this law are exempt from the educational  
149 requirements specified in section 301.5-3(a).

150 301.5-4. *Liability Coverage.* To the extent the Federal Tort Claims Act coverage does not apply,  
151 the Nation shall provide professional liability insurance for all law enforcement officers.

152 301.5-5. *Declaration of Additional Restrictions of Employees.* All personnel of the Oneida  
153 Police Department shall be bound by standard operating procedures that are required as a result of  
154 the specific and unique needs of law enforcement.

155 301.5-6. *Law Enforcement Officers to Be Sworn.* All law enforcement officers shall be installed  
156 by sworn oath before the Oneida Business Committee during a regular or special Oneida Business  
157 Committee meeting, or at an alternative time and location as determined by the Oneida Business  
158 Committee Secretary.

159 (a) When taking an oath, the law enforcement officer shall appear in person to take their  
160 oath, except if granted permission by the Oneida Business Committee Secretary to appear  
161 through video conferencing, or through other telecommunications.

162 (b) If an oath is administered outside of an Oneida Business Committee meeting, a quorum  
163 of Oneida Business Committee members shall be present to witness the oath.

### 164 165 **301.6. Oneida Public Safety and Security Commission**

166 301.6-1. *Establishment.* There is hereby established an Oneida Public Safety and Security  
167 Commission to provide oversight regarding the activities and actions of public safety and security  
168 operations throughout the Reservation to provide the greatest possible professional services to the  
169 Nation and to allow for community input regarding those public safety and security services  
170 through its representatives on the Oneida Public Safety and Security Commission. The Oneida  
171 Public Safety and Security Commission is an oversight body of the following departments of the  
172 Nation, but its oversight authority does not involve decision making processes on day-to-day  
173 activities of those public safety services:

174 (a) Oneida Police Department;

175 (b) Internal Security Department; and

176 (c) Any other safety operation department of the Nation as identified in the bylaws of the  
177 Oneida Public Safety and Security Commission.

178 301.6-2. *Appointment of Commissioners.* The Oneida Business Committee shall appoint five  
179 (5) members to the Oneida Public Safety and Security Commission for a term of five (5) years.  
180 Commissioners may serve more than one (1) term, but not more than three (3) consecutive terms.

181 301.6-3. *Commissioner Eligibility Qualifications.* In order to be eligible for membership on the  
182 Oneida Public Safety and Security Commission an individual shall:

183 (a) Be a member of the Nation;

184 (b) Be twenty-five (25) years of age or older;

185 (c) Have a background investigation result in none of the following:

186 (1) A felony conviction in the State of Wisconsin, or any conviction of a crime in  
187 another state that would be considered a felony conviction if the offense and

188 adjudication occurred in the State of Wisconsin;

189 (2) A felony arrest which results in a misdemeanor conviction due to a plea  
190 arrangement;

191 (3) A conviction of any law violation that could bring discredit to the Oneida Public  
192 Safety and Security Commission; or

193 (4) Any pardon issued by the Nation or the governor of any State, for an offense  
194 specified in sections 301.6-4(c)(1)-(3), shall not deem a person as “exonerated” for  
195 the purposes of membership on the Oneida Public Safety and Security Commission;

196 (d) Not be employed with or terminated from the Oneida Police Department, Internal  
197 Security Department, or any other public safety operation overseen by the Oneida Public  
198 Safety and Security Commission;

199 **301.6-4. Responsibilities in Regard to the Oneida Police Department.** The Oneida Public Safety  
200 and Security Commission shall be responsible for and empowered to do the following in regard to  
201 the Oneida Police Department:

202 (a) Appoint, suspend, or remove the Police Chief of the Oneida Police Department.

203 (b) Approve all law enforcement officer appointments made by the Police Chief including  
204 the promotion of subordinates.

205 (c) Approve an eligibility list of individuals determined to be eligible for appointment as a  
206 law enforcement officer or promotion.

207 (d) Hear charges filed against law enforcement officers ~~or other appointed personnel~~ of the  
208 Police Department, whether filed by the Oneida Public Safety and Security Commission  
209 or the Police Chief, make findings and determinations, and impose penalties, up to and  
210 including termination.

211 (e) Hear appeals of disciplinary actions against any sworn law enforcement  
212 ~~personnel~~ officers.

213 (1) The Oneida Public Safety and Security Commission shall not have authority  
214 over disciplinary actions of non-sworn personnel.

215 (f) Adopt standard operating procedures governing the Oneida Public Safety and Security  
216 Commission’s management of its own activities.

217 **301.6-5. Responsibilities in Regard to the Internal Security and Other Departments.** The  
218 responsibilities of the Oneida Public Safety and Security Commission in regard to the Internal  
219 Security Department or any other safety operation department of the Nation shall be provided for  
220 in the Oneida Public Safety and Security Commission bylaws.

221 **301.6-6. Removal From Office.** A member of the Oneida Public Safety and Security Commission  
222 may have their appointment terminated by the Oneida Business Committee for:

223 (a) Misconduct in office;

224 (b) Conduct which could jeopardize the reputation of the Nation, the Oneida Public Safety  
225 and Security Commission, or the public safety system;

226 (c) Any change in status which would place the Commissioner in conflict with the  
227 qualifications specified in section 301.6-3(c) above; or

228 (d) Violation of the confidentiality of closed hearings or any other information declared  
229 confidential by the Oneida Public Safety and Security Commission.

### 230 **301.7. Appointment of Law Enforcement Officers**

231 **301.7-1. Job Task Analysis.** The Police Chief shall develop a job task analysis (job description)  
232 for law enforcement officers and submit the job task analysis to the Oneida Public Safety and  
233

- 234 Security Commission for approval.
- 235 301.7-2. *Hiring Criteria.* Hiring criteria for law enforcement officers, shall be developed by the  
236 Oneida Public Safety and Security Commission and implemented by the Police Chief. The hiring  
237 criteria shall include, but not be limited to, the following:
- 238 (a) educational requirements;
  - 239 (b) satisfactory background investigation;
  - 240 (c) psychological examination; and
  - 241 (d) medical certification.
- 242 301.7-3. *Hiring Process Outline.* A hiring process outline shall be developed by the Oneida Public  
243 Safety and Security Commission and implemented by the Police Chief. The hiring process outline  
244 shall detail specific steps involved in the hiring process for law enforcement officers, and steps in  
245 the process involving scoring, rank scoring, or grading shall be specified, as well as passing grades  
246 or scores. The hiring process outline shall include all pertinent steps involved in the hiring process  
247 including, but not limited to, the following:
- 248 (a) application process;
  - 249 (b) application screening;
  - 250 (c) written test procedures;
  - 251 (d) oral interviews;
  - 252 (e) physical agility testing;
  - 253 (f) background investigation;
  - 254 (g) conditional offer of employment; and
  - 255 (h) psychological and medical testing.
- 256 301.7-4. *Approval of Additional Law Enforcement Personnel.*
- 257 (a) The Police Chief shall make a request for the hiring of additional law enforcement  
258 personnel through the Human Resources Department processes.
  - 259 (b) Upon receiving approval, the Police Chief shall make a formal request to the Human  
260 Resources Department for posting the position(s) available. The current job task analysis,  
261 hiring criteria. and hiring process outline shall be submitted to the Human Resources  
262 Department by the Police Chief.
- 263 301.7-5. *Process.* All phases of the hiring process shall be conducted in accordance with the  
264 hiring process outline. Duties and responsibilities of persons involved in the process shall be  
265 specified in the outline.
- 266 301.7-6. *Eligibility List.*
- 267 (a) Upon completion of all screening steps of the hiring process outline, a list shall be  
268 compiled of all candidates based on cumulative scores earned by each applicant in all  
269 graded or scored steps of the current hiring process.
  - 270 (b) Candidates shall be ranked in inverse numerical order, that is the candidate with the  
271 highest cumulative score is ranked “1”, the candidate with the second highest cumulative  
272 score is ranked “2”, etc.
  - 273 (c) The list shall be reviewed and approved by the Oneida Public Safety and Security  
274 Commission and submitted to the Police Chief.
  - 275 (d) The eligibility list will be valid for one (1) year from the date it was compiled.
  - 276 (e) The order of appointment of applicants to the position of law enforcement officers  
277 shall follow the order of the eligibility list contingent upon satisfactory background  
278 investigation, psychological testing, and medical testing.
- 279 301.7-7. *Commencement of Background Investigation.*



280 (a) Upon receiving the approved eligibility list, the Police Chief shall direct a subordinate  
281 to commence a background investigation upon candidates based on their numerical ranking  
282 on the eligibility list, starting with the top candidate.

283 (b) Results of the background investigation shall be forwarded to the Police Chief and the  
284 Oneida Public Safety and Security Commission.

285 (c) A candidate may be deemed as having an unsatisfactory background investigation  
286 report by either the Police Chief or the Oneida Public Safety and Security Commission.  
287 Such determinations by the Police Chief of the Oneida Public Safety and Security  
288 Commission shall be made in writing.

289 301.7-8. *Conditional Offer of Employment.* Provided a candidate has satisfactory results in a  
290 background investigation, an offer of employment shall be sent to the candidate. The offer shall  
291 specify the candidate's appointment to the position of law enforcement officer contingent upon  
292 satisfactory psychological and medical testing.

293 301.7-9. *Appointment.* Provided a candidate has passed psychological and medical testing, a  
294 formal offer of employment shall be extended to the candidate by the Police Chief. In the event  
295 the candidate lacks the minimum educational requirements as specified in Section 301.5-3(a), the  
296 contingency of employment shall be specified in the offer.

### 297 **301.8. Promotion of Law Enforcement Officers**

299 301.8-1. *Criteria for Promotion.* The Oneida Public Safety and Security Commission and the  
300 Police Chief shall establish specific criteria for the promotion of law enforcement officers. The  
301 criteria shall be placed on the notice or position posting for the promotion.

302 301.8-2. *Process.* The process for promotion shall be developed by the Police Chief and approved  
303 by the Oneida Public Safety and Security Commission. The specifics of the process shall be placed  
304 on the notice or position posting for said promotion.

305 301.8-3. *Psychological Testing Required.* All candidates for promotion shall undergo  
306 psychological testing and have a satisfactory report prior to promotion. The results of such test  
307 shall be made available to the Police Chief and the Oneida Public Safety and Security Commission  
308 chairperson.

309 301.8-4. *Promotion.* Upon completion of all steps in the promotion process, a law enforcement  
310 officer may be promoted upon review and recommendation of Oneida Public Safety and Security  
311 Commission to the Police Chief.

### 312 **301.9 Disciplinary Proceedings for Law Enforcement Officers**

313 301.9-1. ~~*Discipline of Law Enforcement Officers.* The Oneida Public Safety and Security~~  
314 ~~Commission shall have authority discipline a law enforcement officer, in the form of suspension,~~  
315 ~~demotion, or termination, for just cause~~Disciplinary actions for law enforcement officers shall be  
316 governed by this provision of the Law. Disciplinary actions of non-sworn personnel of the Oneida  
317 Police Department shall be governed by the Nation's laws, policies, and rules governing  
318 employment.

319  
320 301.9-2. *Just Cause Standard.* Just cause is determined using the following standards, to the  
321 extent possible:

322 (a) Whether the law enforcement officer could reasonably be expected to have had  
323 knowledge of the probable consequences of the alleged misconduct.

324 (b) Whether the procedure the law enforcement officer allegedly violated is reasonable.

325 (c) Whether the Police Chief, before filing charges against the law enforcement officer,

326 made a reasonable effort to discover whether the law enforcement officer did, in fact,  
327 violate a procedure.

328 (d) Whether the investigation was fair and objective.

329 (e) Whether the Police Chief discovered substantial evidence that the law enforcement  
330 officer violated the procedure as described in the charges filed against the law enforcement  
331 officer.

332 (f) Whether the Police Chief is applying the rule or order fairly and without discrimination  
333 against the law enforcement officer.

334 (g) Whether the proposed discipline is reasonable as it relates to the seriousness of the  
335 alleged violation and to the law enforcement officer's record of service with the Oneida  
336 Police Department.

337 301.9-3. *Discipline of Employees by the Chief of Police.* The Chief of Police may reprimand or  
338 suspend ~~an employee~~ a law enforcement officer for just cause without prior approval of the Oneida  
339 Public Safety and Security Commission. The Chief of Police shall report this action to the  
340 chairperson of the Oneida Public Safety and Security Commission immediately in writing and  
341 explain the cause(s) of the action. A law enforcement officer shall not be entitled to a hearing on  
342 the suspension unless the subordinate requests that the Police Chief file charges, which then  
343 triggers the hearing process.

344 (a) For any reductions in rank or terminations of a law enforcement officer, the Police  
345 Chief shall first file charges with the Oneida Public Safety and Security Commission.

346 301.9-4. *Discipline of the Chief of Police.* The Oneida Public Safety and Security Commission  
347 has the sole authority to suspend or terminate the Chief of Police, for cause, upon its own initiative.  
348 It may suspend the Chief of Police pending the investigation of written charges received.

349 301.9-5. *Right to Request Hearing.* If a law enforcement officer against whom a disciplinary action  
350 of suspension, demotion, or termination has been taken requests a hearing on the matter, the Oneida  
351 Public Safety and Security Commission shall proceed with such a hearing. Charges shall then be  
352 filed with the Oneida Public Safety and Security Commission by the party initially taking the  
353 disciplinary action.

354 301.9-6. *Filing of Charges.*

355 (a) *Standing to File Charges.* Charges may be filed with the Oneida Public Safety and  
356 Security Commission by:

357 (1) the Chief of Police;

358 (2) a member of the Oneida Public Safety and Security Commission;

359 (3) the Oneida Public Safety and Security Commission as a body; or

360 (4) any aggrieved party.

361 (b) *Content of Charges.* The charges shall be in writing and shall be signed by the charging  
362 party. The sources of all information contained in the charges shall be stated in the charges  
363 or in accompanying documents. Information regarding the names and addresses of  
364 witnesses having relevant knowledge relating to the charges may be embodied in a separate  
365 statement accompanying the charges. The charges shall identify the person who is charged  
366 and specify, if possible, the date(s) and place(s) of the alleged offense(s).

367 (c) *Filing of Charges.* The charges shall be filed with the chairperson of the Oneida Public  
368 Safety and Security Commission. Pending disposition of such charges, the Oneida Public  
369 Safety and Security Commission or Police Chief may suspend the employee.

370 (d) *Service of Charges.* Following service upon the Oneida Public Safety and Security  
371 Commission chairperson, a copy of the charge shall be served upon the person charged. A

372 copy of the charge shall be issued to the person charged within five (5) business days after  
373 charges are sent to the Commission.

374 301.9-7. *Procedure for Responding to Charges.*

375 (a) *Participation of the Commission.* If the Oneida Public Safety and Security Commission  
376 as a body files charges, it shall retain special counsel to prosecute such charges on the  
377 Commission's behalf and the Oneida Public Safety and Security Commission shall refrain  
378 from any active involvement in the prosecution of such charges.

379 If any member of the Oneida Public Safety and Security Commission files and actively  
380 prosecutes such charges, such member shall not participate in deliberating the charges or  
381 determining whether they are sustained.

382 (b) *Docket List.* All charges filed with the Oneida Public Safety and Security Commission  
383 shall be recorded on a docket list and assigned a number in sequence of filing with the date  
384 of filing added in parentheses.

385 (c) *Preliminary Investigation.* Upon the filing of charges, the Oneida Public Safety and  
386 Security Commission may have a preliminary investigation conducted to determine if it  
387 has jurisdiction in the matter. If the Oneida Public Safety and Security Commission judges  
388 that it does not have jurisdiction over the charges, it may dismiss the charges. In the event  
389 of such dismissal, the Oneida Public Safety and Security Commission shall notify the  
390 complainant in writing of its action.

391 (d) *Scheduling of Hearing.* Following the filing of charges or a request for a hearing, a  
392 copy of the charges shall be served upon the person charged. The Oneida Public Safety and  
393 Security Commission shall set a date for a hearing not less than ten (10) days or more than  
394 thirty (30) days following receipt of the charges. This timeframe may be waived if mutually  
395 agreed.

396 301.9-8. *Scheduling ~~a~~ Conference.*

397 (a) *Scheduling Conference.* A scheduling conference between the parties and/or their legal  
398 counsel is appropriate to establish the procedural timeline leading up to, and the process  
399 for, the evidentiary hearing.

400 (b) *Purpose of the Scheduling Conference.* The following matters shall be accomplished  
401 at the scheduling conference, and the resolution of these issues shall be memorialized in a  
402 scheduling order distributed to the parties:

- 403 (1) Establishing the date(s) of the evidentiary hearing;
- 404 (2) Setting up deadlines to exchange witness lists and any prior written or recorded  
405 statements or reports of witnesses;
- 406 (3) Setting up deadlines to identify and exchange exhibits;
- 407 (4) Setting up any discovery deadline. Prehearing discovery is permitted.
- 408 (5) Establishing the process and deadlines to request the Oneida Public Safety and  
409 Security Commission to issue subpoenas. The Oneida Public Safety and Security  
410 Commission chairperson has the power to issue subpoenas to compel the attendance  
411 of witnesses;
- 412 (6) Arranging for the recording of the testimony. The hearing shall be transcribed  
413 by a court reporter or otherwise recorded to preserve the evidence in case of an  
414 appeal to the Trial Court; and
- 415 (7) Determining if there are any objections to any Oneida Public Safety and  
416 Security Commission member participating in the hearing, deliberations, or  
417 decision and the basis for such objections.

418 301.9-9. *Evidentiary Hearing.*

419 (a) *Hearing Procedures.*

420 (1) The evidentiary hearing shall be conducted in open session.

421 (2) Following the evidentiary hearing, the deliberations of the Oneida Public Safety  
422 and Security Commission may be conducted in closed session at the discretion of  
423 the Commission.

424 (3) The Commission's vote following deliberations may take place in closed  
425 session, unless the charged party demands that the vote take place in open session.

426 (4) A record of the proceedings shall be created by the Commission. Exhibits  
427 introduced shall be marked with a docket number and exhibit number in sequence  
428 of introduction.

429 (5) Either or both of the parties may be represented by counsel and may compel  
430 the attendance of the witnesses by subpoenas, which shall be issued by the  
431 chairperson of the Commission.

432 (6) All testimony of witnesses at hearings shall be given under oath, administered  
433 by a member of the Commission.

434 (b) *Order of Proceedings.* At the hearing, the order of proceedings shall be as follows:

435 (1) Reading of the charges by the president.

436 (2) Opening statement by the parties, if any;

437 (3) Testimony and introduction of evidence by the charging party to substantiate  
438 the charges, with cross-examination by the accused;

439 (4) Testimony and introduction of evidence by the accused with cross-examination  
440 by the charging party; and

441 (5) Closing arguments.

442 301.9-10. *Deliberations, Findings, Conclusions, Orders from Hearing.*

443 (a) *Finding of Fact.*

444 (1) At the conclusion of the hearing, the Oneida Public Safety and Security  
445 Commission shall prepare written findings of fact based upon the testimony and  
446 evidence presented and shall prepare conclusions which are based on the findings  
447 and an order consistent with such findings and conclusions within three (3) days  
448 after the conclusion of the hearing and file it with the Oneida Public Safety and  
449 Security Commission Secretary.

450 (2) For purposes of deliberation after the hearing, the Oneida Public Safety and  
451 Security Commission shall adjourn into closed session. During the deliberation  
452 only Oneida Public Safety and Security Commission members and the  
453 commission's attorney shall be present.

454 (b) *Just Cause Standard.* In determining whether there is just cause for discipline, the  
455 Oneida Public Safety and Security Commission shall apply the standards set forth in  
456 section 301.9-2.

457 (c) *Charges Rescinded.* If the Oneida Public Safety and Security Commission determines  
458 that the charges are not sustained, the charged party shall immediately have all related  
459 disciplinary action taken to date rescinded and all lost pay or other benefits, if any, restored.

460 (d) *Charges Sustained.* If the Oneida Public Safety and Security Commission determines  
461 that the charges are sustained, the charged party, by order of the Commission, may impose  
462 any of the following penalties, but is not limited to the penalties listed herein:

463 (1) Verbal consultation;

- 464 (2) Written reprimand;  
465 (3) Suspension without pay;  
466 (4) Demotion in rank; or  
467 (5) Termination of employment.

468 (e) *Announcement of Decision.* The Oneida Public Safety and Security Commission shall  
469 announce its decision in open session.

470 (f) *Appeal of Decision.* Any law enforcement officer suspended, demoted, reassigned, or  
471 removed by the Oneida Public Safety and Security Commission may appeal from the order  
472 of the Oneida Public Safety and Security Commission to the Judiciary.

473

### 474 **301.10. Administrative Leave of Law Enforcement Officers**

475 301.10-1. *General.* Administrative leave is an action commenced by the Police Chief affecting  
476 the status of a law enforcement officer. A law enforcement officer is temporarily relieved of all  
477 law enforcement powers while on administrative leave. The law enforcement officer continues to  
478 receive salary and is responsible to report to the Police Chief or perform other duties as assigned.  
479 Administrative leave does not denote wrong-doing on the part of the law enforcement officer.

480 301.10-2. *Applicability.* Administrative leave may only be ordered in the following  
481 circumstances:

- 482 (a) The law enforcement officer poses a threat to themselves or others.  
483 (b) The law enforcement officer is alleged to have committed a violation(s) which calls  
484 for termination of their employment as a law enforcement officer and the matter is under  
485 investigation.  
486 (c) The law enforcement officer is alleged to have committed a violation(s) that is under  
487 investigation and that would cause a loss of public trust in the Oneida Police Department.  
488 (d) The law enforcement officer is under investigation for alcohol or drug abuse.  
489 (e) The law enforcement officer is under investigation for insubordination, untruthfulness,  
490 or commission of a crime.  
491 (f) The law enforcement officer demonstrates behavior indicating the law enforcement  
492 officer is unfit for duty.

493 301.10-3. *Duration of Administrative Leave.*

494 (a) In cases where the law enforcement officer is under formal investigation, the law  
495 enforcement officer shall remain on administrative leave until the investigation is  
496 completed.

497 (1) If the investigation results in allegations being sustained, the law enforcement  
498 officer shall remain on administrative leave pending issuance of discipline.

499 (2) If the investigation results in a finding that the charges were unfounded or not  
500 sustained, the law enforcement officer shall be immediately returned to active duty  
501 status.

502 (b) In cases where the law enforcement officer is placed on administrative leave for other  
503 matters not involving formal investigation, the law enforcement officer shall be returned  
504 to active duty status upon order of the Police Chief. The period of administrative leave in  
505 incidents not involving investigation shall not exceed thirty (30) calendar days.  
506

### 507 **301.11. Firearms Control.**

508 301.11-1. The Oneida Police Department may allow law enforcement use of service firearms in  
509 order to protect life, liberty, property, land, and premises, according to the usual and current

510 accepted law enforcement standards.  
511 301.11-2. The Nation hereby establishes regulations for the carrying of firearms issued to certified  
512 law enforcement officers employed by the Nation.

513 (a) The needs and requirements for carrying firearms shall be established and determined  
514 by the Police Chief subject to the review of the Oneida Public Safety and Security  
515 Commission.

516 (b) Said requirements shall reflect the needs of the Nation in order to protect all persons  
517 and property.

518  
519 *End.*

~~520~~  
520 \_\_\_\_\_

522  
523 Adopted - BC -10-10-01-C  
524 Revisor Correction 2004  
525 Amended – BC-02-25-15-C  
526 Amended – BC-\_\_ - \_\_ - \_\_ - \_\_

**Title 3. Health and Public Safety – Chapter 301**  
**~~ONEIDA NATION LAW ENFORCEMENT ORDINANCE~~**

**Shakotiye'nás Olihwáke**  
*The Matters of Those Who Protect Us*  
**LAW ENFORCEMENT**

#

|   |   |
|---|---|
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| 301.2-1 Adoption, Amendment, Repeal   | 301.8-1 Promotion of Law Enforcement Officers   |
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#

#

**301.1. Purpose and Policy**

301.1-1. Purpose.— The purpose of this ~~ordinance~~ law is to regulate the conduct of the ~~Oneida Tribe of Indians of Wisconsin~~ Nation's law enforcement personnel according to the highest professional standards.

301.1-2. Policy. It is the policy of the Nation to ensure that law enforcement personnel operate at the highest level of professional standards to ensure the safety and welfare of the community.

**301.2. Adoption, Amendment, Repeal**

301.2-1.— This law ~~is~~ was adopted by the Oneida Business Committee by ~~resolution BC Resolution~~ 10-10-01-C and amended by resolution BC-02-25-15-C; ~~and BC- - - -~~.

301.2-2.— This law may be amended ~~pursuant to the procedures set out in the Oneida Administrative Procedures Act~~ or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

301.2-3.— Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

~~301.2-4.— All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this policy are hereby repealed unless specifically re-enacted after adoption of this policy.~~

301.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

301.2-5.— This ~~ordinance shall be known as~~ law is adopted under authority of the Constitution of the Oneida ~~Law Enforcement Ordinance~~ Nation.

**301.3. Definitions**

301.3-1.— This section shall govern the definitions of words ~~as~~ and phrases ~~as~~ used herein within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) ~~“Certified Law Enforcement Officer shall mean~~ law enforcement officer” means a sworn officer who meets all qualifications for law enforcement officer, including accepted professional training and experience, State of Wisconsin Certification or eligibility for Certification which includes but is not limited to, satisfactory background investigation, psychological evaluation, drug testing, and police firearms certification.

(b) ~~Police Supervisors are defined as~~ “Commissioner” shall mean a member of the Oneida Public Safety and Security Commission.

50 (c) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was  
51 established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later  
52 authorized to administer the judicial authorities and responsibilities of the Nation by  
53 Oneida General Tribal Council resolution GTC-03-19-17.

54 (d) “Nation” means the Oneida Nation.

55 (e) “Non-sworn personnel” means an individual employed with the Oneida Police  
56 Department that does not meet the qualifications for a certified law enforcement officers  
57 who hold the rank of Sergeant or above officer.

58 ~~(e) Non-sworn Personnel shall mean those persons who perform duties for the f) \_\_\_\_\_~~  
59 ~~“Oneida Police Department as directed by the Police Chief or designee.~~

60 ~~(d) Oneida Police~~Public Safety and Security ~~Commission shall refer to”~~ means the entity  
61 made up of those individuals appointed by the Oneida Business Committee to ~~serve in the~~  
62 ~~capacity of insuring that community input is maintained~~provide oversight regarding the  
63 activities and actions of public safety and security operations throughout the Reservation.

64 (g) “Police supervisor” means a law enforcement officer who holds the rank of Sergeant  
65 or above.

66 (h) “Reservation” means all land within the Oneida Police Department by means of policy  
67 review and enforcement exterior boundaries of the Reservation of the Oneida Nation, as  
68 created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added  
69 thereto pursuant to federal law.

70 ~~(e) Commissioner shall mean a member of the Oneida Police Commission.~~

71 ~~(f) Oneida Tribe means the Oneida Tribe of Indians of Wisconsin.~~

72 ~~(g) Judiciary means the judicial system that was established by Oneida General Tribal~~  
73 ~~Council resolution GTC 01 07 13 B to administer the judicial authorities and~~  
74 ~~responsibilities of the Tribe.~~

75  
76 **301.4. General Principles-**

77 301.4-1.— All law enforcement operations of the Nation shall be conducted in accordance with  
78 this law.

79 301.4-2. Law enforcement operations shall take place on and within ~~Oneida~~the Reservation,  
80 unless:

81 (a) there is a potential that the safety and welfare of an individual is being compromised.  
82 In addition,;

83 (b) the law enforcement operations may take place occur pursuant to mutual aid agreements  
84 with local governments; or

85 (c) the 301.4-2. — All law enforcement operations shall be conducted as set forth in  
86 this ordinance occur pursuant to any other jurisdictional exception.

87 301.4-3.— Law enforcement operations shall be used primarily for the purposes of providing law  
88 enforcement within the Oneida Community Nation and to supplement provide mutual assistance or  
89 aid to external law enforcement services offered by local governments within the Oneida  
90 Community community by powers set forth in section 301.4, of this law, Article IV section 1(f) of  
91 the Constitution and By-Laws of the Oneida Tribe of Indians of Wisconsin Nation, and as set forth  
92 in compacts and agreements authorized by the Oneida Business Committee or General Tribal  
93 Council.

94 301.4-4.— ~~The Oneida Tribe of Indians of Wisconsin~~ The Nation shall appoint and employ law  
95 enforcement personnel within its boundaries as it deems necessary for the purpose of detecting



96 and preventing crime and enforcing the laws ~~and ordinances~~ of the ~~Oneida Tribe~~Nation, in addition  
97 to protection of persons, property, and premises.

98 301.4-5.—The Oneida Police Department may, as authorized and delegated by this  
99 Ordinance~~law~~ and the Oneida Business Committee or General Tribal Council, enter into cross-  
100 deputization and other law enforcement agreements with other jurisdictions.

101 ~~301.4-6.—The Oneida Police Department may allow law enforcement use of service firearms in~~  
102 ~~order to protect life, liberty, property, land and premises, according to the usual and minimum~~  
103 ~~accepted law enforcement standards as determined by the Police Chief with approval of the Oneida~~  
104 ~~Police Commission. However, actual use of deadly force shall be allowed solely for the protection~~  
105 ~~of life or the prevention of grievous bodily harm.~~

106 ~~301.4-7.—A Police Commission is established by this Ordinance to provide oversight regarding~~  
107 ~~the activities and actions of the law enforcement operations to provide the greatest possible~~  
108 ~~professional services to the Oneida community and to allow for community input regarding those~~  
109 ~~law enforcement services through its representatives on the Police Commission. This entity is~~  
110 ~~created as an oversight body and does not involve decision making processes on day to day~~  
111 ~~activities of those law enforcement services.~~

### 112 113 **301.5. Oneida Police Department**

114 301.5-1.—There is hereby established an Oneida Police Department, to which is delegated all  
115 law enforcement authority of the Oneida Tribe~~Nation~~. The Oneida Police Department may create  
116 divisions of operation as may be deemed appropriate.

117 (a) Oneida Police Department Position Restrictions. All positions and appointments of  
118 the Oneida Police Department shall be subject to Indian preference in hiring, except that  
119 the following positions shall be held only by members of the Nation:

- 120 (1) Police Chief~~The~~;  
121 (2) Assistant Police Chief; and  
122 (3) Police Lieutenant.

123 301.5-2. Oneida Police Chief. The Oneida Police Department shall be headed by a Police Chief,  
124 appointed pursuant to ~~Section 6-5 of this Ordinance~~law.

125 (b) The Police Chief shall have authority over departmental personnel and operations,  
126 subject to the ~~powers of the Oneida Police Commission set forth in Section 301.6-1 of this~~  
127 ~~Ordinance.~~

128 (c) ~~In addition to such divisions as are specified in this Ordinance the Oneida Police~~  
129 ~~Department may create divisions of operation as may be deemed appropriate.~~

130 (d) ~~The Police Chief or his/her designee shall have the right to exercise his/her police~~  
131 ~~authority to deputize and use the services and manpower of the Oneida~~ Public Safety and  
132 Security Department for emergencies, special events, and investigations~~Commission.~~

133 301.5-2. ~~Conservation Department. There~~ (b) Qualifications and Process for  
134 Appointment as Police Chief.

135 (1) The recruitment and hiring process for Police Chief shall be a Conservation  
136 Department which is a division of conducted by the Oneida ~~Police Department.~~  
137 This division Public Safety and Security Commission, with assistance, as needed,  
138 by the Human Resources Department.

139 (2) No person shall be ~~responsible for the protection~~ accepted as a candidate or be  
140 eligible to serve as Police Chief who does not meet the following qualifications:

141 (A) Current certification in the State of Wisconsin as a law enforcement

142 officer or upon approval from the applicable State of ~~all fish resources,~~  
143 ~~wildlife resources, and the lands~~Wisconsin Standards Board;

144 (B) Member of the Nation;

145 (C) A minimum of five (5) years creditable service as a sworn law  
146 enforcement officer for a state, tribal, local, or federal government, with  
147 preference for:

148 (i) those who have at least an associate degree in police science,  
149 criminal justice or similar field, or a bachelor's degree in a related  
150 subject; and

151 (ii) those with successful supervisory experience;

152 (D) Current satisfactory background investigation completed by a law  
153 enforcement agency selected by the Oneida ~~Tribe~~Public Safety and Security  
154 Commission with results of the investigation reported directly to the Oneida  
155 Public Safety and Security Commission;

156 (E) Current satisfactory psychological examination report;

157 (F) Current satisfactory medical examination report;

158 (G) Current drug test with negative results for controlled substances; and

159 (H) Any other minimum requirement as provided for in the job description.

160 (3) Examinations, interviews, further selection criteria and other processes utilized  
161 in the hiring process of a Police Chief shall be at the discretion of the Oneida Public  
162 Safety and Security Commission,

163 (4) Upon accepting notification of retirement, resignation, or the removal of a  
164 current Police Chief, the Oneida Public Safety and Security Commission shall  
165 appoint an interim or acting Police Chief who shall serve in said capacity until the  
166 process for appointment of a new Police Chief can be completed.

167 301.5-3.— Law Enforcement Officers.

168 (a) ~~Law Enforcement Officer: Educational Requirements.~~ All persons ~~hired after February~~  
169 ~~1, 1993,~~ shall meet the following minimum education requirements within five (5) years  
170 of ~~the~~their hire date, ~~which are as follows:~~

171 (1) Possess a two (2) year associate degree from ~~a Wisconsin an accredited~~  
172 ~~vocational, technical, and/or adult education district or its accredited equivalent~~  
173 ~~from another state;~~ or

174 (2) Possess documentation in the form of an official transcript showing a minimum  
175 of sixty (60) fully accredited college level credits. ~~Documentation will be required~~  
176 ~~in the form of an official transcript;~~ or

177 (3) Possess a bachelors degree from ~~a Wisconsin~~accredited college or university  
178 ~~or its accredited equivalent.~~

179 (b) Conditional Employment. ~~Persons hired after February 1, 1993.~~ Any person who ~~are~~is  
180 not a certified law enforcement ~~officers~~officer at the time of hire, ~~are~~is considered a  
181 conditional ~~employees~~employee and ~~must~~shall attain the educational requirements as  
182 specified in section 301.5-3(a), within five (5) years of their date of hire.

183 (1) Conditional employees are not eligible for promotion.

184 (2) Law enforcement officers who fail to ~~meet~~attain the ~~specified~~educational  
185 requirements ~~in section B,~~within five (5) years of their date of hire shall be subject  
186 to immediate termination.

187 (c) Educational Requirement: ~~for~~ Police Supervisors. Upon enactment of this

188 ~~ordinance~~law, no law enforcement officer may be considered eligible for promotion to  
189 supervisor until the educational requirements of section 301.5-3(a) have been satisfied.  
190 Law enforcement officers promoted prior to the enactment of this ~~ordinance~~law are exempt  
191 from the educational requirements specified in section 301.5-3(a).

192 ~~(d) Oneida Police Department Position Restrictions/Exceptions. The following positions~~  
193 ~~shall be held only by members of the Oneida Tribe: Police Chief, Assistant Chief, Police~~  
194 ~~Lieutenant or Sergeant, Conservation Director, and Assistant Conservation Director. All~~  
195 ~~other positions and appointments shall be subject to the Indian Preference rules of the~~  
196 ~~Oneida Tribe.~~

197 301.5-4. ~~Liability Coverage. The Oneida Tribe~~To the extent the Federal Tort Claims Act  
198 coverage does not apply, the Nation shall provide professional liability insurance for all law  
199 enforcement officers ~~and Conservation Officers.~~

200 301.5-5. *Declaration of Additional Restrictions of Employees.* All personnel of the Oneida  
201 Police Department shall be bound by ~~Standard Operating Procedures~~standard operating procedures  
202 that are required as a result of the specific and unique needs of law enforcement.

203 301.5-6. *Law Enforcement Officers to Be Sworn.* All law enforcement officers shall be installed  
204 by sworn oath before the Oneida Business Committee ~~at a regular meeting~~during a regular or  
205 special Oneida Business Committee meeting, or at an alternative time and location as determined  
206 by the Oneida Business Committee Secretary.

207 (a) When taking an oath, the law enforcement officer shall appear in person to take their  
208 oath, except if granted permission by the Oneida Business Committee Secretary to appear  
209 through video conferencing, or through other telecommunications.

210 (b) If an oath is administered outside of an Oneida Business Committee meeting, a quorum  
211 of Oneida Business Committee members shall be present to witness the oath.

212  
213 **301.6. — ~~Oneida Police~~Public Safety and Security Commission**

214 301.6-1. ~~Oneida Police Commission. Establishment.~~ Establishment. There is hereby established an Oneida  
215 ~~Police~~ Public Safety and Security Commission to provide oversight regarding the activities and  
216 actions of public safety and security operations throughout the Reservation to provide the greatest  
217 possible professional services to the Nation and to allow for community input regarding those  
218 public safety and security services through its representatives on the Oneida Public Safety and  
219 Security Commission. The Oneida Public Safety and Security Commission is an oversight body  
220 of the following departments of the Nation, but its oversight authority does not involve decision  
221 making processes on day-to-day activities of those public safety services:

222 (a) Oneida Police Department;

223 (b) Internal Security Department; and

224 (c) Any other safety operation department of the Nation as identified in the bylaws of the  
225 Oneida Public Safety and Security Commission.

226 301.6-2. *Appointment of Commissioners.* The Oneida Business Committee shall appoint five  
227 (5) members to the Oneida Public Safety and Security Commission for a term of five (5) years.  
228 Commissioners may serve more than one (1) term, but not more than three (3) consecutive terms.

229 301.6-3. *Commissioner Eligibility Qualifications.* In order to be eligible for membership on the  
230 Oneida Public Safety and Security Commission an individual shall:

231 (a) Be a member of the Nation;

232 (b) Be twenty-five (25) years of age or older;

233 (c) Have a background investigation result in none of the following:

234 (1) A felony conviction in the State of Wisconsin, or any conviction of a crime in  
235 another state that would be considered a felony conviction if the offense and  
236 adjudication occurred in the State of Wisconsin;

237 (2) A felony arrest which results in a misdemeanor conviction due to a plea  
238 arrangement;

239 (3) A conviction of any law violation that could bring discredit to the Oneida Public  
240 Safety and Security Commission; or

241 (4) Any pardon issued by the Nation or the governor of any State, for an offense  
242 specified in sections 301.6-4(c)(1)-(3), shall not deem a person as “exonerated” for  
243 the purposes of membership on the Oneida Public Safety and Security Commission;

244 (d) Not be employed with or terminated from the Oneida Police Department, Internal  
245 Security Department, or any other public safety operation overseen by the Oneida Public  
246 Safety and Security Commission;

247 301.6-4. Responsibilities in Regard to the Oneida Police Department. The Oneida Public Safety  
248 and Security Commission shall be responsible for and empowered to do the following in regard to  
249 the Oneida Police Department:

250 (a) Appoint, suspend, or remove the Police Chief of the Oneida Police Department.

251 (b) Approve all law enforcement officer appointments made by the Police Chief including  
252 the promotion of subordinates.

253 ~~(c) Adopt, modify, and repeal rules governing how lists of individuals, concluded to be~~  
254 ~~eligible for appointment to law enforcement officer and promotion, are established.~~

255 ~~(d) Approve competitive examinations used to judge suitability for appointment or~~  
256 ~~promotion of law enforcement officers.~~

257 ~~(e)~~ (c) Approve an eligibility list of individuals determined to be eligible for appointment  
258 as a law enforcement officer or promotion.

259 ~~(f) Suspend law enforcement officers or other appointed personnel of the Police~~  
260 ~~Department pending the filing and hearing of charges against them, subject to the~~  
261 ~~provisions of 301.10.~~

262 ~~(g) Initiate charges against law enforcement officers or other appointed personnel of the~~  
263 ~~Police Department.~~

264 ~~(h)~~ (d) Hear charges filed against law enforcement officers ~~or other appointed personnel~~  
265 of the Police Department, whether filed by the Oneida Public Safety and Security  
266 Commission or the Police Chief, make findings and determinations, and impose penalties,  
267 up to and including termination.

268 ~~(i)~~ (e) Hear appeals of disciplinary actions against any sworn law enforcement ~~personnel or~~  
269 ~~officers.~~

270 (1) The Oneida Public Safety and Security Commission shall not have authority  
271 over disciplinary actions of non-sworn personnel.

272 ~~(j)~~ (f) Adopt ~~rules~~ standard operating procedures governing the Oneida ~~Police~~ Public Safety  
273 and Security Commission’s management of its own activities.

274 301.6-5. Responsibilities in Regard to the Internal Security and Other Departments. The  
275 responsibilities of the Oneida Public Safety and Security Commission in regard to the Internal  
276 Security Department or any other safety operation department of the Nation shall be provided for  
277 in the Oneida Public Safety and Security Commission bylaws.

278 301.6-6. Removal From Office. ~~(k) Review contracts, and forward to the Oneida~~  
279 ~~Business Committee for approval, concerning cross-deputization, dispatch function and~~

280 mutual aid pacts which are made between the Oneida Police Department and a non-tribal  
281 agency.

282 (l) ~~Approve Standard Operating Procedures of the Oneida Police Department.~~

283 A member of the Oneida Public Safety and Security Commission may have their appointment  
284 terminated by the Oneida Business Committee for:

285 (a) Misconduct~~301.6 2. Appointment of Commissioners.~~ ~~The Oneida Business~~  
286 ~~Committee shall appoint five members to the Oneida Police Commission for a term of five years.~~  
287 ~~Commissioners may serve more than one term, but not more than three consecutive terms.~~

288 ~~301.6 3. Commissioner Requirements and Qualifications. The following are membership~~  
289 ~~requirements for serving on the Oneida Police Commission:~~

290 (a) ~~Shall be a member of the Oneida Tribe.~~

291 (b) ~~Must be 25 years of age or older.~~

292 (c) ~~Satisfactory background investigation. The following would prohibit any person from~~  
293 ~~serving on the Oneida Police Commission:~~

294 (1) ~~A felony conviction in the State of Wisconsin, or any conviction of a crime in~~  
295 ~~another state that would be considered a felony conviction if the offense and~~  
296 ~~adjudication occurred in the State of Wisconsin.~~

297 (2) ~~A felony arrest which results in a misdemeanor conviction due to a plea~~  
298 ~~arrangement.~~

299 (3) ~~A conviction of any ordinance violation that could bring discredit to the~~  
300 ~~Commission.~~

301 (4) ~~Any pardon issued by the Oneida Tribe or the governor of any State, for an~~  
302 ~~offense specified in sections 301.6 3(e)(1)-(3), shall not deem a person as~~  
303 ~~“exonerated” for the purposes of membership on the Oneida Police Commission.~~

304 (d) ~~Must submit to drug testing prior to appointment and on an annual basis.~~

305 (e) ~~Must not be an employee of the Oneida Police Department~~

306 (f) ~~Shall attend applicable training.~~

307 (g) ~~Must be a person of known good standing in the community.~~

308 ~~301.6 4. Removal From Office.~~ ~~In addition to the Removal Law standards, a Commissioner may~~  
309 ~~be removed for:~~

310 (a) ~~Malfeasance in office;~~

311 (b) ~~Conduct which could jeopardize the reputation of the Oneida Tribe Nation, the Oneida~~  
312 ~~Police Public Safety and Security Commission, or the law enforcement public safety~~  
313 ~~system;~~

314 (c) ~~Any change in status which would place the Commissioner in conflict with the~~  
315 ~~qualifications specified in section 301.6-3(c) above;~~ or

316 (d) ~~Violation of the confidentiality of closed hearings or any other information declared~~  
317 ~~“confidential” by the Oneida Police Commission.~~

318 ~~301.6 5. Qualifications~~ Public Safety and Security Commission.

319  
320 301. Process for 7. Appointment as Police Chief.

321 (a) ~~The recruitment and hiring process for Police Chief shall be conducted by the Oneida~~  
322 ~~Police Commission, with assistance, as needed, by the Human Resources Department.~~

323 (b) ~~No person shall be accepted as a candidate or be eligible to serve as Police Chief who~~  
324 ~~does not meet the following qualifications:~~

325 (1) ~~Current certification in the State of Wisconsin as a law enforcement officer or~~

326 ~~upon approval from State of Wisconsin Standards Board.~~

327 ~~(2) Member of the Oneida Tribe.~~

328 ~~(3) A minimum of five (5) years creditable service as a sworn law enforcement~~  
329 ~~officer for a state, tribal, local or federal government, with preference for (i) those~~  
330 ~~who have at least an associate degree in police science, criminal justice or similar~~  
331 ~~field, or a bachelor's degree in a related subject; and (ii) those with successful~~  
332 ~~supervisory experience.~~

333 ~~(4) Current satisfactory background investigation completed by the Security~~  
334 ~~Department or a law enforcement agency selected by the Oneida Police~~  
335 ~~Commission with results of the investigation reported directly to the Oneida Police~~  
336 ~~Commission.~~

337 ~~(5) Current satisfactory psychological examination report.~~

338 ~~(6) Current satisfactory medical examination report.~~

339 ~~(7) Current drug test with negative results for controlled substances.~~

340 ~~(e) Examinations, interviews, further selection criteria and other processes utilized in the~~  
341 ~~hiring process of a Police Chief shall be at the discretion of the Oneida Police Commission;~~

342 ~~(d) Upon accepting retirement notification or the resignation of a current Police Chief, the~~  
343 ~~Oneida Police Commission shall appoint an interim or acting Police Chief who shall serve~~  
344 ~~in said capacity until the process for appointment of a new chief can be completed.~~

### 345 346 **301.7. — Appointment of Law Enforcement Officers**

347 301.7-1.— *Job Task Analysis.* The Police Chief shall develop a ~~Job Task Analysis~~job task  
348 analysis (job description) for law enforcement officers and submit ~~the job task analysis~~ to the  
349 Oneida ~~Police~~Public Safety and Security Commission for approval.

350 301.7-2.— *Hiring Criteria.* Hiring criteria for law enforcement officers, shall be developed by  
351 the Oneida ~~Police~~Public Safety and Security Commission and implemented by the Police Chief;  
352 ~~and must.~~ The hiring criteria shall include, but ~~is not~~ be limited to, the following:

353 (a) ~~\_~~ educational requirements;

354 (b) ~~\_~~ satisfactory background investigation;

355 (c) ~~\_~~ psychological examination; and

356 (d) ~~\_~~ medical certification.

357 301.7-3.— *Hiring Process Outline.* ~~A Hiring Process Outline~~A hiring process outline shall be  
358 developed by ~~the~~ Oneida ~~Police~~Public Safety and Security Commission and implemented by the  
359 Police Chief. ~~The Hiring Process Outline will~~hiring process outline shall detail specific steps  
360 involved in the hiring process for law enforcement officers, and steps in the process involving  
361 scoring, rank scoring, or grading shall be specified, as well as passing grades or scores. ~~The Hiring~~  
362 ~~Process Outline~~hiring process outline shall include all pertinent steps involved in the hiring process  
363 including, but not limited to, the following:

364 (a) ~~\_~~ application process;

365 (b) ~~\_~~ application screening;

366 (c) ~~\_~~ written test procedures;

367 (d) ~~\_~~ oral interviews;

368 (e) ~~\_~~ physical agility testing;

369 (f) ~~\_~~ background investigation;

370 (g) ~~\_~~ conditional offer of employment; and

371 (h) ~~\_~~ psychological and medical testing.

372 301.7-4.— *Approval of Additional Law Enforcement Personnel.*

373 (a) The Police Chief shall make a request for the hiring of additional law enforcement  
374 personnel through the Human Resources Department processes.

375 (b) Upon receiving approval, the Police Chief shall make a formal request to the Human  
376 Resources Department for posting the position(s) available. The current ~~Job-Task~~  
377 ~~Analysis, Hiring Criteria~~ job task analysis, hiring criteria and ~~Hiring Process Outline~~ hiring  
378 process outline shall be submitted to the Human Resources Department by the Police Chief.

379 301.7-5.— *Process.* All phases of the hiring process shall be conducted in accordance with the  
380 ~~Hiring Process Outline~~ hiring process outline. Duties and responsibilities of persons involved in  
381 the process shall be specified in the outline.

382 301.7-6.— *Eligibility List.*

383 (a) Upon completion of all screening steps of the ~~Hiring Process Outline~~ hiring process  
384 outline, a list shall be compiled of all candidates based on cumulative scores earned by  
385 each applicant in all graded or scored steps of the current hiring process.

386 (b) Candidates shall be ranked in inverse numerical order, that is the candidate with the  
387 highest cumulative score is ranked “1”, the candidate with the second highest cumulative  
388 score is ranked “2”, etc.

389 (c) The list shall be reviewed and approved by the Oneida ~~Police~~ Public Safety and  
390 Security Commission and submitted to the Police Chief.

391 (d) The eligibility list will be valid for one (1) year from the date it was compiled.

392 (e) The order of appointment of applicants to the position of law enforcement officers  
393 shall follow the order of the eligibility list contingent upon satisfactory background  
394 investigation, psychological testing, and medical testing.

395 301.7-7.— *Commencement of Background Investigation.*

396 (a) Upon receiving the approved eligibility list, the Police Chief shall direct a subordinate  
397 to commence a background investigation upon candidates based on their numerical ranking  
398 on the eligibility list, starting with the top candidate.

399 (b) Results of the background investigation shall be forwarded to the Police Chief and the  
400 Oneida ~~Police~~ Public Safety and Security Commission.

401 (c) A candidate may be deemed as having an unsatisfactory background investigation  
402 report by either the Police Chief or the Oneida ~~Police~~ Public Safety and Security  
403 Commission, ~~such~~ Such determinations ~~to be~~ by the Police Chief of the Oneida Public Safety  
404 and Security Commission shall be made in writing.

405 301.7-8.— *Conditional Offer of Employment.* Provided a candidate has satisfactory results in a  
406 background investigation, an offer of employment shall be sent to the candidate. -The offer shall  
407 specify the candidate’s appointment to the position of law enforcement officer contingent upon  
408 satisfactory psychological and medical testing.

409 301.7-9.— *Appointment.* Provided a candidate has passed psychological and medical testing, a  
410 formal offer of employment shall be extended to the candidate by the Police Chief. -In the event  
411 the candidate lacks the minimum educational requirements as specified in Section 301.5-3(a), the  
412 contingency of employment shall be specified in the offer.

413  
414 **301.8.— *Promotion of Law Enforcement Officers***

415 301.8-1.— *Criteria for Promotion.* The Oneida ~~Police~~ Public Safety and Security Commission  
416 and the Police Chief shall establish specific criteria for the promotion of law enforcement officers.  
417 The criteria shall be placed on the -notice or position posting for the promotion.

4 18 301.8-2.— *Process*. The process for promotion shall be developed by the Police Chief and  
4 19 approved by the Oneida ~~Police~~Public Safety and Security Commission.— The specifics of the  
4 20 process shall be placed on the notice or position posting for said promotion.

4 21 301.8-3.— *Psychological Testing Required*.— All candidates for promotion shall undergo  
4 22 psychological testing and have a satisfactory report prior to promotion. —The results of such test  
4 23 shall be made available to the Police Chief and the Oneida ~~Police~~Public Safety and Security  
4 24 Commission ~~President~~chairperson.

4 25 301.8-4.— *Promotion*. Upon completion of all steps in the promotion process, a law enforcement  
4 26 officer may be promoted upon review and recommendation of Oneida ~~Police~~Public Safety and  
4 27 Security Commission to the Police Chief.

### 4 28 **301.9.— Disciplinary Proceedings: for Law Enforcement Officers.**

4 29 301.9-1.— ~~*Purpose*~~

4 30 (a) ~~Disciplinary actions may be commenced against a law enforcement officer by the~~  
4 31 ~~Police Chief for violations of departmental Standard Operating Procedures or laws of the~~  
4 32 ~~Oneida Tribe or other government. Such actions are independent of and exempt from the~~  
4 33 ~~Oneida Blue Book. Discipline may range from a verbal warning to termination.~~

4 34 (b) ~~In serious matters, an internal investigation is conducted by the Oneida Police~~  
4 35 ~~Department and the law enforcement officer under investigation may be placed on~~  
4 36 ~~administrative leave pursuant to 301.10.~~

4 37 (c) ~~In order to insure due process to for law enforcement officers, an law enforcement~~  
4 38 ~~officer has the right to appeal a disciplinary action to the Oneida Police Commission.~~

4 39 (d) ~~shall be governed by this provision of the Law.~~ Disciplinary actions may be ordered  
4 40 by the Police Chief. The officer may appeal a disciplinary action to the Oneida Police  
4 41 Commission. Upon filing of an appeal, the Police Chief shall submit formal charges  
4 42 against the officer to the Oneida Police Commission.

4 43 (e) ~~Any citizen may file charges or a complaint against an officer with the Police Chief.~~  
4 44 ~~The Oneida Police Commission can proceed with a hearing after an investigation by the~~  
4 45 ~~Police Chief.~~

4 46 (f) ——— If a citizen wishes to file a complaint with the Oneida Police Commission, the Oneida  
4 47 Police Commission will refer the complaint to the Police Chief to begin an investigation. Upon  
4 48 completion of the investigation the Police Chief of non-sworn personnel of the Oneida Police  
4 49 Department shall submit his written report to the Commission be governed by the Nation's laws,  
4 50 policies, and rules governing employment.

4 51 301.9-2.— *Commencement of Disciplinary Hearings*. A request for an appeal of a decision of the  
4 52 Police Chief must be submitted in writing to the Oneida Police Commission within 30 calendar  
4 53 days.

4 54 (a) ~~If the request is by a law enforcement officer or a citizen against a law enforcement~~  
4 55 ~~officer, the President must without delay, notify the Police Chief that a hearing has been~~  
4 56 ~~requested.~~

4 57 (b) ~~The Oneida Police Commission must meet within ten calendar days and set a hearing~~  
4 58 ~~date.~~

4 59 (c) ~~The Oneida Police Commission has the right to extend hearing dates for Just Cause~~  
4 60 ~~Standard. Just cause.~~

4 61 301.9-3.— *Rights and Responsibilities of the Oneida Police Commission at Hearings.*

4 62 (a) ~~The Oneida Police Commission shall have legal counsel and a court reporter present at~~  
4 63



4 64 all formal proceedings.

4 65 (b) The Oneida Police Commission has the authority to subpoena witnesses.

4 66 (c) Hearing procedures that may be unique to a particular hearing shall be established prior  
4 67 to the hearing.

4 68 (d) Disciplinary hearings shall be open, except where:

4 69 (1) the person subject to discipline requests in writing that the hearing be closed;  
4 70 or

4 71 (2) the Police Chief requests in writing that the hearing be closed and indicates that  
4 72 confidential police matters are involved.

4 73 (e) Commissioners shall not discuss the disciplinary matter with anyone outside the  
4 74 Commission until the hearing is completed and a decision is filed.

4 75 301.9 4. Rights of the Accused Law Enforcement Officer at Hearings.

4 76 (a) Notice of charges that have been made, or will be made, as well as actions that will or  
4 77 may be taken against the individual.

4 78 (b) The right to a hearing to respond to the charges.

4 79 (c) The right to representation at the individual's expense.

4 80 (d) The right to confront and cross-examine his/her accusers.

4 81 (e) The right to present evidence and argue his/her view of the facts.

4 82 301.9 5. Pre-Hearing Conference.

4 83 (a) A pre-hearing conference shall be scheduled at least five (5) working days before the  
4 84 hearing. The law enforcement officer and the complainant shall be notified in writing of  
4 85 the pre-hearing conference and both may be represented.

4 86 (b) The is determined using the following matters shall be accomplished at the conference.

4 87 (1) Witness lists and any prior written or recorded statements or reports of  
4 88 witnesses will be exchanged between the parties or their representatives.

4 89 (2) Exhibit lists will also be exchanged between the parties or their representatives,  
4 90 and each party and/or their representative shall be permitted to physically inspect  
4 91 all exhibits of the other party.

4 92 (3) Witnesses or exhibits not on the pre-hearing conference lists may not be  
4 93 introduced at the hearing unless the Oneida Police Commission determines that the  
4 94 party or their representative can demonstrate a satisfactory reason for the inclusion  
4 95 of such witness or exhibit on the list(s) submitted at the pre-hearing conference.

4 96 (4) In the absence of the party or representative at the pre-hearing conference, the  
4 97 Oneida Police Commission shall dismiss the charges unless the party or  
4 98 representative can demonstrate a satisfactory reason for non-appearance.

4 99 301.9 6. Hearing Procedure.

5 00 (a) ——— The nature of a law enforcement agency requires the highest level of public trust, As a  
5 01 result, hearings will be open to the public to allow the public to be reassured that hearings are  
5 02 conducted under the highest standards of objectiveness and reason, to the extent possible:

5 03 (b) The President of the Oneida Police Commission has the duties of:

5 04 (1) Presiding over the hearing.

5 05 (2) Maintaining order.

5 06 (3) Insuring that the hearing is fair and impartial.

5 07 (c) The President may elect to use an attorney or experienced hearing examiner to assist in  
5 08 conducting the hearing.

5 09 (d) Order of Business.

- ~~(1) The President calls the meeting to order and:~~  
~~(A) Explains that the Oneida Police Commission is not an investigative body.~~  
~~(B) Describes the hearing as a formal inquiry into the facts of the matter in front of them as an original hearing body.~~  
~~(2) The President reads the charges, as filed with the Oneida Police Commission, and cites the rule(s) and/or policy(s) that were alleged to be violated.~~  
~~(3) Testimony begins with the person(s) who filed the charges:~~  
~~(A) Witnesses, evidence, documents, and other related reports will be submitted by the Police Chief or complainant.~~  
~~(B) Witnesses testify under oath which can be administered by the President or any other Commissioner.~~  
~~(C) Any Commissioner may ask questions but they must be relevant to the issues at hand. It is the President's responsibility to insure that the questions are germane.~~  
~~(D) The law enforcement officer or representative may challenge the testimony or evidence presented.~~  
~~(4) The law enforcement officer or representative is given an opportunity to present facts, introduce evidence, and call witnesses to prove:~~  
~~(A) That the law enforcement officer was wrongly charged.~~  
~~(B) The penalty is not appropriate for the violation.~~  
~~(5) The complainant may challenge any testimony offered by the accused.~~  
~~(6) Both sides are allowed to present closing summaries of their position.~~  
~~(7) The President then adjourns the hearing.~~  
~~(8) The Oneida Police Commission retires to executive session to deliberate upon the matter.~~

~~301.9 7. — Just Cause Standard Applied to Commission Deliberations. The Commissioners shall base their decisions regarding a disciplinary action upon the "just cause" standard.~~

- ~~(a) (a) Whether the law enforcement officer could reasonably be expected to have had knowledge of the probable consequences of the alleged misconduct.~~  
~~(b) Whether the procedure the law enforcement officer allegedly violated is reasonable.~~  
~~(c) Whether the Police Chief, before filing charges against the law enforcement officer, made a reasonable effort to discover whether the law enforcement officer did, in fact, violate a procedure.~~  
~~(d) Whether the investigation was fair and objective.~~  
~~(e) Whether the Police Chief discovered substantial evidence that the law enforcement officer violated the procedure as described in the charges filed against the law enforcement officer.~~  
~~(f) Whether the Police Chief is applying the rule or order fairly and without discrimination against the law enforcement officer.~~  
~~(g) Whether the proposed discipline is reasonable as it relates to the seriousness of the alleged violation and to the law enforcement officer's record of service with the Oneida Police Department.~~

~~301.9 8. — Commission Actions.~~

- ~~(a) The Oneida Police Commission may on appeals, review a disciplinary action taken by the Police Chief, and:~~

~~(1) Approve the action taken by the Police Chief without change.~~

301.9-3. *Discipline of Employees by the Chief of Police.* The Chief of Police may reprimand or suspend a law enforcement officer for just cause without prior approval of the Oneida Public Safety and Security Commission. The Chief of Police shall report this action to the chairperson of the Oneida Public Safety and Security Commission immediately in writing and explain the cause(s) of the action. A law enforcement officer shall not be entitled to a hearing on the suspension unless the subordinate requests that the Police Chief file charges, which then triggers the hearing process.

(a) For any reductions in rank or terminations of a law enforcement officer, the Police Chief shall first file charges with the Oneida Public Safety and Security Commission.

301.9-4. *Discipline of the Chief of Police.* The Oneida Public Safety and Security Commission has the sole authority to suspend or terminate the Chief of Police, for cause, upon its own initiative. It may suspend the Chief of Police pending the investigation of written charges received.

301.9-5. *Right to Request Hearing.* If a law enforcement officer against whom a disciplinary action of suspension, demotion, or termination has been taken requests a hearing on the matter, the Oneida Public Safety and Security Commission shall proceed with such a hearing. Charges shall then be filed with the Oneida Public Safety and Security Commission by the party initially taking the disciplinary action.

301.9-6. *Filing of Charges.*

(a) *Standing to File Charges.* Charges may be filed with the Oneida Public Safety and Security Commission by:

(1) the Chief of Police;

~~(2) Dismiss or modify~~ a member of the Oneida Public Safety and Security Commission;

(3) the Oneida Public Safety and Security Commission as a body; or

(4) any aggrieved party.

(b) *Content of Charges.* The charges shall be in writing and shall be signed by the charging party. The sources of all information contained in the charges shall be stated in the charges or in accompanying documents. Information regarding the names and addresses of witnesses having relevant knowledge relating to the charges may be embodied in a separate statement accompanying the charges. The charges shall identify the person who is charged and specify, if possible, the date(s) and place(s) of the alleged offense(s).

(c) *Filing of Charges.* The charges shall be filed with the chairperson of the Oneida Public Safety and Security Commission. Pending disposition of such charges, the Oneida Public Safety and Security Commission or Police Chief may suspend the employee.

(d) *Service of Charges.* Following service upon the Oneida Public Safety and Security Commission chairperson, a copy of the charge(s) ~~made by the Police Chief~~ shall be served upon the person charged. A copy of the charge shall be issued to the person charged within five (5) business days after charges are sent to the Commission.

301.9-7. *Procedure for Responding to Charges.*

(a) *Participation of the Commission.* If the Oneida Public Safety and Security Commission as a body files charges, it shall retain special counsel to prosecute such charges on the Commission's behalf and the Oneida Public Safety and Security Commission shall refrain from any active involvement in the prosecution of such charges. If any member of the Oneida Public Safety and Security Commission files and actively prosecutes such charges, such member shall not participate in deliberating the charges or determining whether they are sustained.

602 (b) *Docket List.* All charges filed with the Oneida Public Safety and Security Commission  
603 shall be recorded on a docket list and assigned a number in sequence of filing with the date  
604 of filing added in parentheses.

605 (c) *Preliminary Investigation.* Upon the filing of charges, the Oneida Public Safety and  
606 Security Commission may have a preliminary investigation conducted to determine if it  
607 has jurisdiction in the matter. If the Oneida Public Safety and Security Commission judges  
608 that it does not have jurisdiction over the charges, it may dismiss the charges. In the event  
609 of such dismissal, the Oneida Public Safety and Security Commission shall notify the  
610 complainant in writing of its action.

611 (d) *Scheduling of Hearing.* Following the filing of charges or a request for a hearing, a  
612 copy of the charges shall be served upon the person charged. The Oneida Public Safety and  
613 Security Commission shall set a date for a hearing not less than ten (10) days or more than  
614 thirty (30) days following receipt of the charges. This timeframe may be waived if mutually  
615 agreed.

616 301.9-8.(3) — Modify any penalty imposed by the Police Chief.

617 (4) Void the action taken by the Police Chief.

618 ~~(b) — The Oneida Police Commission *Scheduling Conference.*~~

619 (a) *Scheduling Conference.* A scheduling conference between the parties and/or their legal  
620 counsel is appropriate to establish the procedural timeline leading up to, and the process  
621 for, the evidentiary hearing.

622 (b) *Purpose of the Scheduling Conference.* The following matters shall be accomplished  
623 at the scheduling conference, and the resolution of these issues shall be memorialized in a  
624 scheduling order distributed to the parties:

625 (1) Establishing the date(s) of the evidentiary hearing;

626 (2) Setting up deadlines to exchange witness lists and any prior written or recorded  
627 statements or reports of witnesses;

628 (3) Setting up deadlines to identify and exchange exhibits;

629 (4) Setting up any discovery deadline. Prehearing discovery is permitted.

630 (5) Establishing the process and deadlines to request the Oneida Public Safety and  
631 Security Commission to issue subpoenas. The Oneida Public Safety and Security  
632 Commission chairperson has the power to issue subpoenas to compel the attendance  
633 of witnesses;

634 (6) Arranging for the recording of the testimony. The hearing shall be transcribed  
635 by a court reporter or otherwise recorded to preserve the evidence in case of an  
636 appeal to the Trial Court; and

637 (7) Determining if there are any objections to any Oneida Public Safety and  
638 Security Commission member participating in the hearing, deliberations, or  
639 decision and the basis for such objections.

640 301.9-9. *Evidentiary Hearing.*

641 (a) *Hearing Procedures.*

642 (1) The evidentiary hearing shall be conducted in open session.

643 (2) Following the evidentiary hearing, the deliberations of the Oneida Public Safety  
644 and Security Commission may be conducted in closed session at the discretion of  
645 the Commission.

646 (3) The Commission's vote following deliberations may take place in closed  
647 session, unless the charged party demands that the vote take place in open session.

648 (4) A record of the proceedings shall be created by the Commission. Exhibits  
649 introduced shall be marked with a docket number and exhibit number in sequence  
650 of introduction.

651 (5) Either or both of the parties may be represented by counsel and may compel  
652 the attendance of the witnesses by subpoenas, which shall be issued by the  
653 chairperson of the Commission.

654 (6) All testimony of witnesses at hearings shall be given under oath, administered  
655 by a member of the Commission.

656 (b) Order of Proceedings. At the hearing, the order of proceedings shall be as follows:

657 (1) Reading of the charges by the president.

658 (2) Opening statement by the parties, if any;

659 (3) Testimony and introduction of evidence by the charging party to substantiate  
660 the charges, with cross-examination by the accused;

661 (4) Testimony and introduction of evidence by the accused with cross-examination  
662 by the charging party; and

663 (5) Closing arguments.

664 301.9-10. Deliberations, Findings, Conclusions, Orders from Hearing.

665 (a) Finding of Fact.

666 (1) At the conclusion of the hearing, the Oneida Public Safety and Security  
667 Commission shall prepare written findings of fact based upon the testimony and  
668 evidence presented and shall prepare conclusions which are based on the findings  
669 and an order consistent with such findings and conclusions within three (3) days  
670 after the conclusion of the hearing and file it with the Oneida Public Safety and  
671 Security Commission Secretary.

672 (2) For purposes of deliberation after the hearing, the Oneida Public Safety and  
673 Security Commission shall adjourn into closed session. During the deliberation  
674 only Oneida Public Safety and Security Commission members and the  
675 commission's attorney shall be present.

676 (b) Just Cause Standard. In determining whether there is just cause for discipline, the  
677 Oneida Public Safety and Security Commission shall apply the standards set forth in  
678 section 301.9-2.

679 (c) Charges Rescinded. If the Oneida Public Safety and Security Commission determines  
680 that the charges are not sustained, the charged party shall immediately have all related  
681 disciplinary action taken to date rescinded and all lost pay or other benefits, if any, restored.

682 (d) Charges Sustained. If the Oneida Public Safety and Security Commission determines  
683 that the charges are sustained, the charged party, by order of the Commission, may impose  
684 any of the following penalties, but is not limited to the penalties listed herein:

685 (1) —\_ Verbal consultation;

686 (2) —\_ Written reprimand;

687 (3) —\_ Suspension without pay;

688 (4) —\_ Demotion in rank; or

689 (5) —\_ Termination of employment.

690 (e) ~~e) Announcement of Decision.~~ The Oneida ~~Police Commission's findings shall be in~~  
691 writing ~~Public Safety and include:~~

692 (1) ~~A statement of all charges filed.~~

693 (2) ~~The specific rule(s), policy(s), or standard(s) of conduct violated.~~

694 ~~(3) A list of charges that the Oneida Police~~Security Commission ~~found were proven~~shall  
695 announce its decision in open session.

696 ~~(4) A summary of the disciplinary actions considered~~(f) Appeal of Decision. Any  
697 law enforcement officer suspended, demoted, reassigned, or removed by the  
698 Oneida ~~Police Commission.~~

699 ~~(5) The disciplinary action ordered by the Oneida Police Commission~~Public Safety  
700 and any special actions attached to the approved disciplinary action.

701 ~~(d) In acting on a complaint including a request for termination of employment, filed with~~  
702 ~~the Oneida Police Commission, the Oneida Police~~Security Commission may:

703 ~~(1) Dismiss~~ appeal from the complaint.

704 ~~(2) Dismiss or modify certain charges filed.~~

705 ~~(3) Conclude that~~order of the ~~testimony~~Oneida Public Safety and ~~evidence sustain~~  
706 ~~the charges and impose a penalty.~~

707 ~~(4) Allow the Oneida Police Commission the power to hire an outside agency to~~  
708 ~~conduct the investigation of allegations against the Police Chief.~~

709 ~~301.9-9. Appeals of Commission Findings. Appeals of Oneida Police Commission's~~  
710 ~~ruling shall be made~~Security Commission to the Judiciary.

711  
712 **301.10. — Administrative Leave: of Law Enforcement Officers.—**

713 301.10-1.— *General.* Administrative leave is an action commenced by the Police Chief affecting  
714 the status of a law enforcement officer. -A law enforcement officer is temporarily relieved of all  
715 law enforcement powers while on administrative leave. -The law enforcement officer continues to  
716 receive salary and is responsible to report to the Police Chief or perform other duties as assigned.  
717 Administrative leave does not denote wrong-doing on the part of the law enforcement officer.

718 301.10-2.— *Applicability.* Administrative leave may only be ordered in the following  
719 circumstances:

720 (a) The law enforcement officer poses a threat to themselves or others.

721 (b) The law enforcement officer is alleged to have committed a violation(s) which calls  
722 for termination of ~~his or her~~their employment as a law enforcement officer and the matter  
723 is under investigation.

724 (c) The law enforcement officer is alleged to have committed a violation(s) that is under  
725 investigation and that would cause a loss of public trust in the Oneida Police Department.

726 (d) The law enforcement officer is under investigation for alcohol or drug abuse.

727 (e) The law enforcement officer is under investigation for insubordination, untruthfulness,  
728 or commission of a crime.

729 (f) The law enforcement officer demonstrates behavior indicating the law enforcement  
730 officer is unfit for duty.

731 301.10-3.— *Duration of Administrative Leave.*

732 (a) In cases where the law enforcement officer is under formal investigation, the law  
733 enforcement officer ~~will~~shall remain on administrative leave until the investigation is  
734 completed.

735 (1) If the investigation results in allegations being sustained, the law enforcement  
736 officer ~~will~~shall remain on administrative leave pending issuance of discipline.

737 (2) If the investigation results in a finding that the charges were unfounded or not  
738 sustained, the law enforcement officer shall be immediately returned to active duty  
739 status.

740 (b) In cases where the law enforcement officer is placed on administrative leave for other  
741 matters not involving formal investigation, the law enforcement officer shall be returned  
742 to active duty status upon order of the Police Chief. -The period of administrative leave in  
743 incidents not involving investigation shall not exceed thirty ~~working~~(30) calendar days.  
744

745 **301.11. — Firearms Control.**

746 ~~301.11-1. The Oneida Tribe~~301.11-1. The Oneida Police Department may allow law  
747 enforcement use of service firearms in order to protect life, liberty, property, land, and premises,  
748 according to the usual and current accepted law enforcement standards.

749 301.11-2. The Nation hereby establishes regulations for the carrying of firearms issued to certified  
750 law enforcement officers employed by the ~~Oneida Tribe~~Nation.

751 (a) The needs and requirements for carrying firearms shall be established and determined  
752 by the Police Chief subject to the review of the Oneida ~~Police~~Public Safety and Security  
753 Commission.

754 (b) Said requirements shall reflect the needs of the ~~Oneida Tribe~~Nation in order to protect  
755 all persons and property.  
756

757 *End.*  
758

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760  
761 Adopted - BC -10-10-01-C  
762 Revisor Correction 2004  
763 Amended – BC-02-25-15-C  
764 Amended – BC- - - -

**Title 3. Health and Public Safety – Chapter 301**  
**Shakotiye·nás Olihwáke**  
*The Matters of Those Who Protect Us*  
**LAW ENFORCEMENT**

#

301.1-1 Purpose and Policy  
301.2-1 Adoption, Amendment, Repeal  
301.3-1 Definitions  
301.4-1 General Principles  
301.5-1 Oneida Police Department  
301.6-1 Oneida Public Safety and Security Commission

301.7-1 Appointment of Law Enforcement Officers  
301.8-1 Promotion of Law Enforcement Officers  
301.9-1 Disciplinary Proceedings  
301.10-1 Administrative Leave  
301.11-1 Firearms Control

#

#

**301.1. Purpose and Policy**

301.1-1. *Purpose.* The purpose of this law is to regulate the conduct of the Nation’s law enforcement personnel according to the highest professional standards.

301.1-2. *Policy.* It is the policy of the Nation to ensure that law enforcement personnel operate at the highest level of professional standards to ensure the safety and welfare of the community.

**301.2. Adoption, Amendment, Repeal**

301.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-10-01-C and amended by resolution BC-02-25-15-C and BC-\_\_-\_\_-\_\_.

301.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

301.2-3. Should a provision of this law or the application there of to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

301.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

301.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**301.3. Definitions**

301.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Certified law enforcement officer” means a sworn officer who meets all qualifications for law enforcement officer, including accepted professional training and experience, State of Wisconsin Certification or eligibility for Certification which includes but is not limited to, satisfactory background investigation, psychological evaluation, drug testing, and police firearms certification.

(b) “Commissioner” shall mean a member of the Oneida Public Safety and Security Commission.

(c) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17.

(d) “Nation” means the Oneida Nation.

(e) “Non-sworn personnel” means an individual employed with the Oneida Police Department that does not meet the qualifications for a certified law enforcement officer.



50 (f) “Oneida Public Safety and Security Commission” means the entity made up of those  
51 individuals appointed by the Oneida Business Committee to provide oversight regarding  
52 the activities and actions of public safety and security operations throughout the  
53 Reservation.

54 (g) “Police supervisor” means a law enforcement officer who holds the rank of Sergeant  
55 or above.

56 (h) “Reservation” means all land within the exterior boundaries of the Reservation of the  
57 Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any  
58 lands added thereto pursuant to federal law.

59  
60 **301.4. General Principles**

61 301.4-1. All law enforcement operations of the Nation shall be conducted in accordance with this  
62 law.

63 301.4-2. Law enforcement operations shall take place on and within the Reservation, unless:

64 (a) there is a potential that the safety and welfare of an individual is being compromised;

65 (b) the law enforcement operations occur pursuant to mutual aid agreements with local  
66 governments; or

67 (c) the law enforcement operations occur pursuant to any other jurisdictional exception.

68 301.4-3. Law enforcement operations shall be used primarily for the purposes of providing law  
69 enforcement within the Nation and to provide mutual assistance or aid to external law enforcement  
70 services offered by local governments within the Oneida community by powers set forth in section  
71 301.4 of this law, Article IV section 1(f) of the Constitution and By-Laws of the Oneida Nation,  
72 and as set forth in compacts and agreements authorized by the Oneida Business Committee or  
73 General Tribal Council.

74 301.4-4. The Nation shall appoint and employ law enforcement personnel within its boundaries  
75 as it deems necessary for the purpose of detecting and preventing crime and enforcing the laws of  
76 the Nation, in addition to protection of persons, property, and premises.

77 301.4-5. The Oneida Police Department may, as authorized and delegated by this law and the  
78 Oneida Business Committee or General Tribal Council, enter into cross-deputization and other law  
79 enforcement agreements with other jurisdictions.

80  
81 **301.5. Oneida Police Department**

82 301.5-1. There is hereby established an Oneida Police Department which is delegated all law  
83 enforcement authority of the Nation. The Oneida Police Department may create divisions of  
84 operation as may be deemed appropriate.

85 (a) *Oneida Police Department Position Restrictions.* All positions and appointments of  
86 the Oneida Police Department shall be subject to Indian preference in hiring, except that  
87 the following positions shall be held only by members of the Nation:

88 (1) Police Chief;

89 (2) Assistant Police Chief; and

90 (3) Police Lieutenant.

91 301.5-2. *Oneida Police Chief.* The Oneida Police Department shall be headed by a Police Chief,  
92 appointed pursuant to this law.

93 (a) The Police Chief shall have authority over departmental personnel and operations,  
94 subject to the authority of the Oneida Public Safety and Security Commission.

95 (b) *Qualifications and Process for Appointment as Police Chief.*

96 (1) The recruitment and hiring process for Police Chief shall be conducted by the  
97 Oneida Public Safety and Security Commission, with assistance, as needed, by the  
98 Human Resources Department.

99 (2) No person shall be accepted as a candidate or be eligible to serve as Police  
100 Chief who does not meet the following qualifications:

101 (A) Current certification in the State of Wisconsin as a law enforcement  
102 officer or upon approval from the applicable State of Wisconsin Standards  
103 Board;

104 (B) Member of the Nation;

105 (C) A minimum of five (5) years creditable service as a sworn law  
106 enforcement officer for a state, tribal, local, or federal government, with  
107 preference for:

108 (i) those who have at least an associate degree in police science,  
109 criminal justice or similar field, or a bachelor's degree in a related  
110 subject; and

111 (ii) those with successful supervisory experience;

112 (D) Current satisfactory background investigation completed by a law  
113 enforcement agency selected by the Oneida Public Safety and Security  
114 Commission with results of the investigation reported directly to the Oneida  
115 Public Safety and Security Commission;

116 (E) Current satisfactory psychological examination report;

117 (F) Current satisfactory medical examination report;

118 (G) Current drug test with negative results for controlled substances; and

119 (H) Any other minimum requirement as provided for in the job description.

120 (3) Examinations, interviews, further selection criteria and other processes utilized  
121 in the hiring process of a Police Chief shall be at the discretion of the Oneida Public  
122 Safety and Security Commission,

123 (4) Upon accepting notification of retirement, resignation, or the removal of a  
124 current Police Chief, the Oneida Public Safety and Security Commission shall  
125 appoint an interim or acting Police Chief who shall serve in said capacity until the  
126 process for appointment of a new Police Chief can be completed.

127 **301.5-3. Law Enforcement Officers.**

128 (a) *Educational Requirements.* All persons shall meet the following minimum education  
129 requirements within five (5) years of their hire date:

130 (1) Possess a two (2) year associate degree from an accredited vocational,  
131 technical, or adult education district; or

132 (2) Possess documentation in the form of an official transcript showing a minimum  
133 of sixty (60) fully accredited college level credits; or

134 (3) Possess a bachelors degree from accredited college or university.

135 (b) *Conditional Employment.* Any person who is not a certified law enforcement officer  
136 at the time of hire, is considered a conditional employee and shall attain the educational  
137 requirements as specified in section 301.5-3(a), within five (5) years of their date of hire.

138 (1) Conditional employees are not eligible for promotion.

139 (2) Law enforcement officers who fail to attain the educational requirements within  
140 five (5) years of their date of hire shall be subject to immediate termination.

141 (c) *Educational Requirement for Police Supervisors.* Upon enactment of this law, no law

142 enforcement officer may be considered eligible for promotion to supervisor until the  
143 educational requirements of section 301.5-3(a) have been satisfied. Law enforcement  
144 officers promoted prior to the enactment of this law are exempt from the educational  
145 requirements specified in section 301.5-3(a).

146 301.5-4. *Liability Coverage.* To the extent the Federal Tort Claims Act coverage does not apply,  
147 the Nation shall provide professional liability insurance for all law enforcement officers.

148 301.5-5. *Declaration of Additional Restrictions of Employees.* All personnel of the Oneida  
149 Police Department shall be bound by standard operating procedures that are required as a result of  
150 the specific and unique needs of law enforcement.

151 301.5-6. *Law Enforcement Officers to Be Sworn.* All law enforcement officers shall be installed  
152 by sworn oath before the Oneida Business Committee during a regular or special Oneida Business  
153 Committee meeting, or at an alternative time and location as determined by the Oneida Business  
154 Committee Secretary.

155 (a) When taking an oath, the law enforcement officer shall appear in person to take their  
156 oath, except if granted permission by the Oneida Business Committee Secretary to appear  
157 through video conferencing, or through other telecommunications.

158 (b) If an oath is administered outside of an Oneida Business Committee meeting, a quorum  
159 of Oneida Business Committee members shall be present to witness the oath.

### 161 **301.6. Oneida Public Safety and Security Commission**

162 301.6-1. *Establishment.* There is hereby established an Oneida Public Safety and Security  
163 Commission to provide oversight regarding the activities and actions of public safety and security  
164 operations throughout the Reservation to provide the greatest possible professional services to the  
165 Nation and to allow for community input regarding those public safety and security services  
166 through its representatives on the Oneida Public Safety and Security Commission. The Oneida  
167 Public Safety and Security Commission is an oversight body of the following departments of the  
168 Nation, but its oversight authority does not involve decision making processes on day-to-day  
169 activities of those public safety services:

170 (a) Oneida Police Department;

171 (b) Internal Security Department; and

172 (c) Any other safety operation department of the Nation as identified in the bylaws of the  
173 Oneida Public Safety and Security Commission.

174 301.6-2. *Appointment of Commissioners.* The Oneida Business Committee shall appoint five  
175 (5) members to the Oneida Public Safety and Security Commission for a term of five (5) years.  
176 Commissioners may serve more than one (1) term, but not more than three (3) consecutive terms.

177 301.6-3. *Commissioner Eligibility Qualifications.* In order to be eligible for membership on the  
178 Oneida Public Safety and Security Commission an individual shall:

179 (a) Be a member of the Nation;

180 (b) Be twenty-five (25) years of age or older;

181 (c) Have a background investigation result in none of the following:

182 (1) A felony conviction in the State of Wisconsin, or any conviction of a crime in  
183 another state that would be considered a felony conviction if the offense and  
184 adjudication occurred in the State of Wisconsin;

185 (2) A felony arrest which results in a misdemeanor conviction due to a plea  
186 arrangement;

187 (3) A conviction of any law violation that could bring discredit to the Oneida Public

188 Safety and Security Commission; or

189 (4) Any pardon issued by the Nation or the governor of any State, for an offense  
190 specified in sections 301.6-4(c)(1)-(3), shall not deem a person as “exonerated” for  
191 the purposes of membership on the Oneida Public Safety and Security Commission;

192 (d) Not be employed with or terminated from the Oneida Police Department, Internal  
193 Security Department, or any other public safety operation overseen by the Oneida Public  
194 Safety and Security Commission;

195 **301.6-4. Responsibilities in Regard to the Oneida Police Department.** The Oneida Public Safety  
196 and Security Commission shall be responsible for and empowered to do the following in regard to  
197 the Oneida Police Department:

198 (a) Appoint, suspend, or remove the Police Chief of the Oneida Police Department.

199 (b) Approve all law enforcement officer appointments made by the Police Chief including  
200 the promotion of subordinates.

201 (c) Approve an eligibility list of individuals determined to be eligible for appointment as a  
202 law enforcement officer or promotion.

203 (d) Hear charges filed against law enforcement officers of the Police Department, whether  
204 filed by the Oneida Public Safety and Security Commission or the Police Chief, make  
205 findings and determinations, and impose penalties, up to and including termination.

206 (e) Hear appeals of disciplinary actions against any sworn law enforcement officers.

207 (1) The Oneida Public Safety and Security Commission shall not have authority  
208 over disciplinary actions of non-sworn personnel.

209 (f) Adopt standard operating procedures governing the Oneida Public Safety and Security  
210 Commission’s management of its own activities.

211 **301.6-5. Responsibilities in Regard to the Internal Security and Other Departments.** The  
212 responsibilities of the Oneida Public Safety and Security Commission in regard to the Internal  
213 Security Department or any other safety operation department of the Nation shall be provided for  
214 in the Oneida Public Safety and Security Commission bylaws.

215 **301.6-6. Removal From Office.** A member of the Oneida Public Safety and Security Commission  
216 may have their appointment terminated by the Oneida Business Committee for:

217 (a) Misconduct in office;

218 (b) Conduct which could jeopardize the reputation of the Nation, the Oneida Public Safety  
219 and Security Commission, or the public safety system;

220 (c) Any change in status which would place the Commissioner in conflict with the  
221 qualifications specified in section 301.6-3(c) above; or

222 (d) Violation of the confidentiality of closed hearings or any other information declared  
223 confidential by the Oneida Public Safety and Security Commission.

### 224 **301.7. Appointment of Law Enforcement Officers**

226 **301.7-1. Job Task Analysis.** The Police Chief shall develop a job task analysis (job description)  
227 for law enforcement officers and submit the job task analysis to the Oneida Public Safety and  
228 Security Commission for approval.

229 **301.7-2. Hiring Criteria.** Hiring criteria for law enforcement officers, shall be developed by the  
230 Oneida Public Safety and Security Commission and implemented by the Police Chief. The hiring  
231 criteria shall include, but not be limited to, the following:

232 (a) educational requirements;

233 (b) satisfactory background investigation;

- 234 (c) psychological examination; and
- 235 (d) medical certification.

236 301.7-3. *Hiring Process Outline.* A hiring process outline shall be developed by the Oneida Public  
237 Safety and Security Commission and implemented by the Police Chief. The hiring process outline  
238 shall detail specific steps involved in the hiring process for law enforcement officers, and steps in  
239 the process involving scoring, rank scoring, or grading shall be specified, as well as passing grades  
240 or scores. The hiring process outline shall include all pertinent steps involved in the hiring process  
241 including, but not limited to, the following:

- 242 (a) application process;
- 243 (b) application screening;
- 244 (c) written test procedures;
- 245 (d) oral interviews;
- 246 (e) physical agility testing;
- 247 (f) background investigation;
- 248 (g) conditional offer of employment; and
- 249 (h) psychological and medical testing.

250 301.7-4. *Approval of Additional Law Enforcement Personnel.*

251 (a) The Police Chief shall make a request for the hiring of additional law enforcement  
252 personnel through the Human Resources Department processes.

253 (b) Upon receiving approval, the Police Chief shall make a formal request to the Human  
254 Resources Department for posting the position(s) available. The current job task analysis,  
255 hiring criteria, and hiring process outline shall be submitted to the Human Resources  
256 Department by the Police Chief.

257 301.7-5. *Process.* All phases of the hiring process shall be conducted in accordance with the  
258 hiring process outline. Duties and responsibilities of persons involved in the process shall be  
259 specified in the outline.

260 301.7-6. *Eligibility List.*

261 (a) Upon completion of all screening steps of the hiring process outline, a list shall be  
262 compiled of all candidates based on cumulative scores earned by each applicant in all  
263 graded or scored steps of the current hiring process.

264 (b) Candidates shall be ranked in inverse numerical order, that is the candidate with the  
265 highest cumulative score is ranked "1", the candidate with the second highest cumulative  
266 score is ranked "2", etc.

267 (c) The list shall be reviewed and approved by the Oneida Public Safety and Security  
268 Commission and submitted to the Police Chief.

269 (d) The eligibility list will be valid for one (1) year from the date it was compiled.

270 (e) The order of appointment of applicants to the position of law enforcement officers  
271 shall follow the order of the eligibility list contingent upon satisfactory background  
272 investigation, psychological testing, and medical testing.

273 301.7-7. *Commencement of Background Investigation.*

274 (a) Upon receiving the approved eligibility list, the Police Chief shall direct a subordinate  
275 to commence a background investigation upon candidates based on their numerical ranking  
276 on the eligibility list, starting with the top candidate.

277 (b) Results of the background investigation shall be forwarded to the Police Chief and the  
278 Oneida Public Safety and Security Commission.

279 (c) A candidate may be deemed as having an unsatisfactory background investigation

280 report by either the Police Chief or the Oneida Public Safety and Security Commission.  
281 Such determinations by the Police Chief of the Oneida Public Safety and Security  
282 Commission shall be made in writing.

283 301.7-8. *Conditional Offer of Employment.* Provided a candidate has satisfactory results in a  
284 background investigation, an offer of employment shall be sent to the candidate. The offer shall  
285 specify the candidate's appointment to the position of law enforcement officer contingent upon  
286 satisfactory psychological and medical testing.

287 301.7-9. *Appointment.* Provided a candidate has passed psychological and medical testing, a  
288 formal offer of employment shall be extended to the candidate by the Police Chief. In the event  
289 the candidate lacks the minimum educational requirements as specified in Section 301.5-3(a), the  
290 contingency of employment shall be specified in the offer.

### 291 **301.8. Promotion of Law Enforcement Officers**

292 301.8-1. *Criteria for Promotion.* The Oneida Public Safety and Security Commission and the  
293 Police Chief shall establish specific criteria for the promotion of law enforcement officers. The  
294 criteria shall be placed on the notice or position posting for the promotion.

295 301.8-2. *Process.* The process for promotion shall be developed by the Police Chief and approved  
296 by the Oneida Public Safety and Security Commission. The specifics of the process shall be placed  
297 on the notice or position posting for said promotion.

298 301.8-3. *Psychological Testing Required.* All candidates for promotion shall undergo  
299 psychological testing and have a satisfactory report prior to promotion. The results of such test  
300 shall be made available to the Police Chief and the Oneida Public Safety and Security Commission  
301 chairperson.

302 301.8-4. *Promotion.* Upon completion of all steps in the promotion process, a law enforcement  
303 officer may be promoted upon review and recommendation of Oneida Public Safety and Security  
304 Commission to the Police Chief.

### 305 **301.9 Disciplinary Proceedings for Law Enforcement Officers**

306 301.9-1. Disciplinary actions for law enforcement officers shall be governed by this provision of  
307 the Law. Disciplinary actions of non-sworn personnel of the Oneida Police Department shall be  
308 governed by the Nation's laws, policies, and rules governing employment.

309 301.9-2. *Just Cause Standard.* Just cause is determined using the following standards, to the  
310 extent possible:

311 (a) Whether the law enforcement officer could reasonably be expected to have had  
312 knowledge of the probable consequences of the alleged misconduct.

313 (b) Whether the procedure the law enforcement officer allegedly violated is reasonable.

314 (c) Whether the Police Chief, before filing charges against the law enforcement officer,  
315 made a reasonable effort to discover whether the law enforcement officer did, in fact,  
316 violate a procedure.

317 (d) Whether the investigation was fair and objective.

318 (e) Whether the Police Chief discovered substantial evidence that the law enforcement  
319 officer violated the procedure as described in the charges filed against the law enforcement  
320 officer.

321 (f) Whether the Police Chief is applying the rule or order fairly and without discrimination  
322 against the law enforcement officer.

323 (g) Whether the proposed discipline is reasonable as it relates to the seriousness of the  
324  
325

326 alleged violation and to the law enforcement officer's record of service with the Oneida  
327 Police Department.

328 301.9-3. *Discipline of Employees by the Chief of Police.* The Chief of Police may reprimand or  
329 suspend a law enforcement officer for just cause without prior approval of the Oneida Public Safety  
330 and Security Commission. The Chief of Police shall report this action to the chairperson of the  
331 Oneida Public Safety and Security Commission immediately in writing and explain the cause(s)  
332 of the action. A law enforcement officer shall not be entitled to a hearing on the suspension unless  
333 the subordinate requests that the Police Chief file charges, which then triggers the hearing process.

334 (a) For any reductions in rank or terminations of a law enforcement officer, the Police  
335 Chief shall first file charges with the Oneida Public Safety and Security Commission.

336 301.9-4. *Discipline of the Chief of Police.* The Oneida Public Safety and Security Commission  
337 has the sole authority to suspend or terminate the Chief of Police, for cause, upon its own initiative.  
338 It may suspend the Chief of Police pending the investigation of written charges received.

339 301.9-5. *Right to Request Hearing.* If a law enforcement officer against whom a disciplinary action  
340 of suspension, demotion, or termination has been taken requests a hearing on the matter, the Oneida  
341 Public Safety and Security Commission shall proceed with such a hearing. Charges shall then be  
342 filed with the Oneida Public Safety and Security Commission by the party initially taking the  
343 disciplinary action.

344 301.9-6. *Filing of Charges.*

345 (a) *Standing to File Charges.* Charges may be filed with the Oneida Public Safety and  
346 Security Commission by:

- 347 (1) the Chief of Police;  
348 (2) a member of the Oneida Public Safety and Security Commission;  
349 (3) the Oneida Public Safety and Security Commission as a body; or  
350 (4) any aggrieved party.

351 (b) *Content of Charges.* The charges shall be in writing and shall be signed by the charging  
352 party. The sources of all information contained in the charges shall be stated in the charges  
353 or in accompanying documents. Information regarding the names and addresses of  
354 witnesses having relevant knowledge relating to the charges may be embodied in a separate  
355 statement accompanying the charges. The charges shall identify the person who is charged  
356 and specify, if possible, the date(s) and place(s) of the alleged offense(s).

357 (c) *Filing of Charges.* The charges shall be filed with the chairperson of the Oneida Public  
358 Safety and Security Commission. Pending disposition of such charges, the Oneida Public  
359 Safety and Security Commission or Police Chief may suspend the employee.

360 (d) *Service of Charges.* Following service upon the Oneida Public Safety and Security  
361 Commission chairperson, a copy of the charge shall be served upon the person charged. A  
362 copy of the charge shall be issued to the person charged within five (5) business days after  
363 charges are sent to the Commission.

364 301.9-7. *Procedure for Responding to Charges.*

365 (a) *Participation of the Commission.* If the Oneida Public Safety and Security Commission  
366 as a body files charges, it shall retain special counsel to prosecute such charges on the  
367 Commission's behalf and the Oneida Public Safety and Security Commission shall refrain  
368 from any active involvement in the prosecution of such charges. If any member of the  
369 Oneida Public Safety and Security Commission files and actively prosecutes such charges,  
370 such member shall not participate in deliberating the charges or determining whether they  
371 are sustained.

372 (b) *Docket List*. All charges filed with the Oneida Public Safety and Security Commission  
373 shall be recorded on a docket list and assigned a number in sequence of filing with the date  
374 of filing added in parentheses.

375 (c) *Preliminary Investigation*. Upon the filing of charges, the Oneida Public Safety and  
376 Security Commission may have a preliminary investigation conducted to determine if it  
377 has jurisdiction in the matter. If the Oneida Public Safety and Security Commission judges  
378 that it does not have jurisdiction over the charges, it may dismiss the charges. In the event  
379 of such dismissal, the Oneida Public Safety and Security Commission shall notify the  
380 complainant in writing of its action.

381 (d) *Scheduling of Hearing*. Following the filing of charges or a request for a hearing, a  
382 copy of the charges shall be served upon the person charged. The Oneida Public Safety and  
383 Security Commission shall set a date for a hearing not less than ten (10) days or more than  
384 thirty (30) days following receipt of the charges. This timeframe may be waived if mutually  
385 agreed.

386 301.9-8. *Scheduling Conference*.

387 (a) *Scheduling Conference*. A scheduling conference between the parties and/or their legal  
388 counsel is appropriate to establish the procedural timeline leading up to, and the process  
389 for, the evidentiary hearing.

390 (b) *Purpose of the Scheduling Conference*. The following matters shall be accomplished  
391 at the scheduling conference, and the resolution of these issues shall be memorialized in a  
392 scheduling order distributed to the parties:

393 (1) Establishing the date(s) of the evidentiary hearing;

394 (2) Setting up deadlines to exchange witness lists and any prior written or recorded  
395 statements or reports of witnesses;

396 (3) Setting up deadlines to identify and exchange exhibits;

397 (4) Setting up any discovery deadline. Prehearing discovery is permitted.

398 (5) Establishing the process and deadlines to request the Oneida Public Safety and  
399 Security Commission to issue subpoenas. The Oneida Public Safety and Security  
400 Commission chairperson has the power to issue subpoenas to compel the attendance  
401 of witnesses;

402 (6) Arranging for the recording of the testimony. The hearing shall be transcribed  
403 by a court reporter or otherwise recorded to preserve the evidence in case of an  
404 appeal to the Trial Court; and

405 (7) Determining if there are any objections to any Oneida Public Safety and  
406 Security Commission member participating in the hearing, deliberations, or  
407 decision and the basis for such objections.

408 301.9-9. *Evidentiary Hearing*.

409 (a) *Hearing Procedures*.

410 (1) The evidentiary hearing shall be conducted in open session.

411 (2) Following the evidentiary hearing, the deliberations of the Oneida Public Safety  
412 and Security Commission may be conducted in closed session at the discretion of  
413 the Commission.

414 (3) The Commission's vote following deliberations may take place in closed  
415 session, unless the charged party demands that the vote take place in open session.

416 (4) A record of the proceedings shall be created by the Commission. Exhibits  
417 introduced shall be marked with a docket number and exhibit number in sequence



418 of introduction.

419 (5) Either or both of the parties may be represented by counsel and may compel  
420 the attendance of the witnesses by subpoenas, which shall be issued by the  
421 chairperson of the Commission.

422 (6) All testimony of witnesses at hearings shall be given under oath, administered  
423 by a member of the Commission.

424 (b) Order of Proceedings. At the hearing, the order of proceedings shall be as follows:

425 (1) Reading of the charges by the president.

426 (2) Opening statement by the parties, if any;

427 (3) Testimony and introduction of evidence by the charging party to substantiate  
428 the charges, with cross-examination by the accused;

429 (4) Testimony and introduction of evidence by the accused with cross-examination  
430 by the charging party; and

431 (5) Closing arguments.

432 301.9-10. *Deliberations, Findings, Conclusions, Orders from Hearing.*

433 (a) *Finding of Fact.*

434 (1) At the conclusion of the hearing, the Oneida Public Safety and Security  
435 Commission shall prepare written findings of fact based upon the testimony and  
436 evidence presented and shall prepare conclusions which are based on the findings  
437 and an order consistent with such findings and conclusions within three (3) days  
438 after the conclusion of the hearing and file it with the Oneida Public Safety and  
439 Security Commission Secretary.

440 (2) For purposes of deliberation after the hearing, the Oneida Public Safety and  
441 Security Commission shall adjourn into closed session. During the deliberation  
442 only Oneida Public Safety and Security Commission members and the  
443 commission's attorney shall be present.

444 (b) *Just Cause Standard.* In determining whether there is just cause for discipline, the  
445 Oneida Public Safety and Security Commission shall apply the standards set forth in  
446 section 301.9-2.

447 (c) *Charges Rescinded.* If the Oneida Public Safety and Security Commission determines  
448 that the charges are not sustained, the charged party shall immediately have all related  
449 disciplinary action taken to date rescinded and all lost pay or other benefits, if any, restored.

450 (d) *Charges Sustained.* If the Oneida Public Safety and Security Commission determines  
451 that the charges are sustained, the charged party, by order of the Commission, may impose  
452 any of the following penalties, but is not limited to the penalties listed herein:

453 (1) Verbal consultation;

454 (2) Written reprimand;

455 (3) Suspension without pay;

456 (4) Demotion in rank; or

457 (5) Termination of employment.

458 (e) *Announcement of Decision.* The Oneida Public Safety and Security Commission shall  
459 announce its decision in open session.

460 (f) *Appeal of Decision.* Any law enforcement officer suspended, demoted, reassigned, or  
461 removed by the Oneida Public Safety and Security Commission may appeal from the order  
462 of the Oneida Public Safety and Security Commission to the Judiciary.  
463

464 **301.10. Administrative Leave of Law Enforcement Officers**

465 301.10-1. *General.* Administrative leave is an action commenced by the Police Chief affecting  
466 the status of a law enforcement officer. A law enforcement officer is temporarily relieved of all  
467 law enforcement powers while on administrative leave. The law enforcement officer continues to  
468 receive salary and is responsible to report to the Police Chief or perform other duties as assigned.  
469 Administrative leave does not denote wrong-doing on the part of the law enforcement officer.

470 301.10-2. *Applicability.* Administrative leave may only be ordered in the following  
471 circumstances:

- 472 (a) The law enforcement officer poses a threat to themselves or others.  
473 (b) The law enforcement officer is alleged to have committed a violation(s) which calls  
474 for termination of their employment as a law enforcement officer and the matter is under  
475 investigation.  
476 (c) The law enforcement officer is alleged to have committed a violation(s) that is under  
477 investigation and that would cause a loss of public trust in the Oneida Police Department.  
478 (d) The law enforcement officer is under investigation for alcohol or drug abuse.  
479 (e) The law enforcement officer is under investigation for insubordination, untruthfulness,  
480 or commission of a crime.  
481 (f) The law enforcement officer demonstrates behavior indicating the law enforcement  
482 officer is unfit for duty.

483 301.10-3. *Duration of Administrative Leave.*

- 484 (a) In cases where the law enforcement officer is under formal investigation, the law  
485 enforcement officer shall remain on administrative leave until the investigation is  
486 completed.  
487 (1) If the investigation results in allegations being sustained, the law enforcement  
488 officer shall remain on administrative leave pending issuance of discipline.  
489 (2) If the investigation results in a finding that the charges were unfounded or not  
490 sustained, the law enforcement officer shall be immediately returned to active duty  
491 status.  
492 (b) In cases where the law enforcement officer is placed on administrative leave for other  
493 matters not involving formal investigation, the law enforcement officer shall be returned  
494 to active duty status upon order of the Police Chief. The period of administrative leave in  
495 incidents not involving investigation shall not exceed thirty (30) calendar days.  
496

497 **301.11. Firearms Control.**

498 301.11-1. The Oneida Police Department may allow law enforcement use of service firearms in  
499 order to protect life, liberty, property, land, and premises, according to the usual and current  
500 accepted law enforcement standards.

501 301.11-2. The Nation hereby establishes regulations for the carrying of firearms issued to certified  
502 law enforcement officers employed by the Nation.

- 503 (a) The needs and requirements for carrying firearms shall be established and determined  
504 by the Police Chief subject to the review of the Oneida Public Safety and Security  
505 Commission.  
506 (b) Said requirements shall reflect the needs of the Nation in order to protect all persons  
507 and property.  
508

509 *End.*

510

512  
513 Adopted - BC -10-10-01-C  
514 Revisor Correction 2004  
515 Amended – BC-02-25-15-C  
516 Amended – BC-\_\_-\_\_-\_\_-\_\_



# ONEIDA NATION LAW ENFORCEMENT ORDINANCE AMENDMENTS LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

| <i>Analysis by the Legislative Reference Office</i> |  |
|---|--|
| <b>Intent of the Proposed Amendments</b>            | <ul style="list-style-type: none"><li>▪ Include a new provision providing the policy of the Nation in regard to this law. [3 O.C. 301.1-2];</li><li>▪ Provide that law enforcement operations can take place outside the Reservation when the operations occur pursuant to any other jurisdictional exception that may exist for law enforcement officers. [3 O.C. 301.4-2(c)];</li><li>▪ Remove the Police Sergeant the positions in the Oneida Police Department that are required to be held by enrolled members of the Nation. [3 O.C. 301.5-1(a)];</li><li>▪ Require that upon the removal of a Police Chief, in addition to the retirement or resignation, the Oneida Police Commission shall appoint an interim Police Chief. [3 O.C. 301.5-2(b)(4)];</li><li>▪ Clarify that to the extent that Federal Tort Claims Act coverage does not apply, the Nation shall provide professional liability insurance for all law enforcement officers. [3 O.C. 301.5-4];</li><li>▪ Allow for the sworn oath of a law enforcement officer to take place at a special Oneida Business Committee meeting, or at an alternative time and location as determined by the Oneida Business Committee Secretary, in addition to at a regular Oneida Business Committee meeting. [3 O.C. 301.5-6];</li><li>▪ Expand the Oneida Police Commission into the Oneida Public Safety and Security Commission, which will oversee the Internal Security Department and any other safety operation department of the Nation, in addition to the Oneida Police Department. [3 O.C. 301.6];</li><li>▪ Revise the eligibility qualifications for Oneida Public Safety and Security Commission members. [3 O.C. 301.6-3];</li><li>▪ Revise the responsibilities of the Oneida Public Safety and Security Commission in regard to the Oneida Police Department. [3 O.C. 301.6-4];</li><li>▪ Provide that the responsibilities of the Oneida Public Safety and Security Commission in regard to the Internal Security Department or any other safety operation department of the Nation shall be provided for in the Oneida Public Safety and Security Commission bylaws. [3 O.C. 301.6-5];</li><li>▪ Revise the disciplinary proceedings for law enforcement officers. [3 O.C. 301.9];</li></ul> |

|                          |   |
|--------------------------|---|
|                          | <ul style="list-style-type: none"> <li>▪ Move all provisions regarding the use of firearms to section 301.11 of the Law, and provide that the Oneida Police Department may allow law enforcement use of service firearms in order to protect life, liberty, property, land, and premises, according to the usual and current accepted law enforcement standards. [3 O.C. 301.11-1]; and</li> <li>▪ Make other minor drafting changes throughout the Law.</li> </ul> |
| <b>Purpose</b>           | The purpose of this law is to regulate the conduct of the Nation’s law enforcement personnel according to the highest professional standards. [3 O.C. 301.1-1].   |
| <b>Affected Entities</b> | Oneida Police Department, Oneida Police Commission  |
| <b>Public Meeting</b>    | A public meeting has not yet been held.   |
| <b>Fiscal Impact</b>     | A fiscal impact statement has not yet been requested.   |

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**SECTION 2. LEGISLATIVE DEVELOPMENT**

- A. Background.** The Oneida Nation Law Enforcement Ordinance (“the Law”) was originally adopted by the Oneida Business Committee in 2001 through resolution BC-10-10-01-C. The purpose of the Law is to regulate the conduct of the Nation’s law enforcement personnel according to the highest professional standards. [3 O.C. 301.1-1]. It is the policy of the Nation to ensure that the law enforcement personnel operates at the highest level of professional standards to ensure the safety and welfare of the community. [3 O.C. 301.1-2].
- B. Request for Amendments.** The request for amendments to the Law originally came before the Legislative Operating Committee in 2014 from the Oneida Police Department and the Oneida Law Office for clarification on whether Conservation wardens qualified as sworn officers. The Legislative Operating Committee originally added this item to its Active Files List on September 17, 2014. This legislative matter was then carried on the Active Files List for more than three legislative terms. The Legislative Operating Committee added the Oneida Nation Law Enforcement Ordinance amendments to its Active Files List this legislative term on October 4, 2023.

**SECTION 3. CONSULTATION AND OUTREACH**

- A.** Representatives from the following departments or entities participated in the development of the amendments to the Law and this legislative analysis:
- Oneida Police Department;
  - Oneida Police Commission;
  - Oneida Business Committee;
  - Oneida Law Office;
  - Internal Security Department;
  - Oneida Gaming Commission; and the
  - General Manager.
- B.** The following laws were reviewed in the drafting of this analysis:
- Boards, Committees, and Commissions law; and
  - Oneida Personnel Policies and Procedures.

32 **SECTION 4. PROCESS**

- 33 A. The development of the proposed amendments to the Law complies with the process set forth in the  
34 Legislative Procedures Act (LPA).
- 35     ▪ On October 10, 2023, the Legislative Operating Committee added the Oneida Nation Law  
36     Enforcement Ordinance to its Active Files List.
  - 37     ▪ On September 4, 2024, the Legislative Operating Committee approved the draft of the proposed  
38     amendments to the Law and directed that a legislative analysis be developed.
- 39 B. At the time this legislative analysis was developed the following work meetings had been held  
40 regarding the development of the amendments to the Law this legislative term:
- 41     ▪ March 6, 2024: LOC work session with the Oneida Police Department and the Oneida Law Office.
  - 42     ▪ March 28, 2024: LOC work session.
  - 43     ▪ April 19, 2024: LOC work session with the Oneida Police Department, Oneida Law Office, Oneida  
44     Police Commission, and the Internal Security Department.
  - 45     ▪ June 7, 2024: LOC work session with the Oneida Police Department, Oneida Law Office, Oneida  
46     Police Commission, and the Internal Security Department.
  - 47     ▪ July 26, 2024: LOC work session with the Oneida Police Department and the Oneida Police  
48     Commission.
  - 49     ▪ September 4, 2024: OBC Officers' Meeting.
  - 50     ▪ September 4, 2024: LOC work session.
  - 51     ▪ October 8, 2024: LOC work session with Oneida Police Department, Oneida Law Office, Oneida  
52     Police Commission, Internal Security Department, Oneida Gaming Commission, and the General  
53     Manager.
  - 54     ▪ October 9, 2024: Phone call with Oneida Law Office.
  - 55     ▪ October 18, 2024: LOC work session.
  - 56     ▪ October 24, 2024: LOC work session.
- 57

58 **SECTION 5. CONTENTS OF THE LEGISLATION**

- 59 A. *Policy.* The current Law does not include a policy statement. Amendments to the Law will include the  
60 addition of a policy statement, which will provide that it is the policy of the Nation to ensure that law  
61 enforcement personnel operate at the highest level of professional standards to ensure the safety and  
62 welfare of the community. [3 O.C. 301.1-2].
- 63     ▪ *Effect.* The inclusion of a policy statement complies with the formatting requirements of section  
64     109.11-1(a)(2) of the Legislative Procedures Act which requires that all laws of the Nation contain  
65     a policy section which indicates the direction the law is to take, including impetus or underlying  
66     goal of the regulation.
- 67 B. *Jurisdictional Exception.* Section 301.4-1 of the current Law provides that all law enforcement  
68 operations shall take place on and within the Oneida Reservation unless there is a potential that safety  
69 and welfare of an individual is being compromised, or the enforcement operations take place pursuant  
70 to mutual aid agreements with local governments. The proposed amendments to the Law maintain the  
71 current provision of the Law while also adding a provision which provides that law enforcement  
72 operations can take place outside the Reservation when the operations occur pursuant to any other  
73 jurisdictional exception that may exist for law enforcement officers. [3 O.C. 301.4-2(c)].

74       ▪ *Effect.* The proposed amendments to the Law recognize that there may be other jurisdictional  
75       exceptions that exist for law enforcement officers in other laws, and therefore provides greater  
76       flexibility for the Nation’s law enforcement officers when operating outside of the Reservation.

77 **C. *Oneida Police Department Restrictions.*** Section 301.5-3(d) of the current Law provides that the  
78       positions of Police Chief, Assistant Chief, Police Lieutenant or Sergeant, Conservation Director, and  
79       Assistant Conservation Director are required to be held by only members of the Nation. The proposed  
80       amendments to the Law revise the requirement for what job positions in the Oneida Police Department  
81       are required to be held by enrolled members of the Nation, and require that only the Police Chief,  
82       Assistant Chief, and Police Lieutenant be enrolled members of the Nation. [3 *O.C. 301.5-1(a)*].

83       ▪ *Effect.* The proposed amendments to the Law remove the positions of Police Sergeant,  
84       Conservation Director, and Assistant Conservation Director from the requirement to be held by  
85       members of the Nation. The positions of Conservation Director and Assistant Conservation  
86       Director were removed from the Law as they are not positions of the Oneida Police Department.  
87       The position of Police Sergeant was removed because it provides the Oneida Police Department  
88       greater flexibility in filling its vacant positions. Indian preference in hiring still applies to the hiring  
89       of the Police Sergeant position in accordance with the Oneida Personnel Policies and Procedures.

90 **D. *Notification of Removal of a Police Chief.*** Section 301.6-5(d) of the current Law provides that upon  
91       accepting retirement notification or the resignation of a current Police Chief, the Oneida Police  
92       Commission shall appoint an interim or acting Police Chief who shall serve in said capacity until the  
93       process for appointment of a new chief can be completed. The proposed amendments to the Law also  
94       recognize that upon the removal of a Police Chief, the Oneida Police Commission shall appoint an  
95       interim Police Chief. [3 *O.C. 301.5-2(b)(4)*].

96       ▪ *Effect.* The Law was amended to include the removal of a Police Chief as a circumstance in which  
97       the Oneida Police Commission shall appoint an interim Police Chief to be more inclusive of all  
98       circumstances that may arise in which an interim Police Chief would need to be appointed.

99 **E. *Liability Coverage.*** Section 301.5-4 of the current Law provides that the Nation shall provide  
100       professional liability insurance for all law enforcement officers and Conservation Officers. The  
101       proposed amendments to the Law clarify that to the extent that Federal Tort Claims Act coverage does  
102       not apply, the Nation shall provide professional liability insurance for all law enforcement officers. [3  
103       *O.C. 301.5-4*].

104       ▪ *Effect.* The Law was amended to recognize that the Federal Tort Claims Act does provide some  
105       liability coverage for law enforcement officers, and therefore a reference to that policy was  
106       included.

107 **F. *Law Enforcement Officers to be Sworn.*** Section 301.5-6 of the current Law provides that all law  
108       enforcement officers shall be installed by sworn oath before the Oneida Business Committee at a  
109       regular meeting. The proposed amendments to the Law provide that all law enforcement officers be  
110       installed by sworn oath before the Oneida Business Committee during a regular or special Oneida  
111       Business Committee meeting, or at an alternative time and location as determined by the Oneida  
112       Business Committee Secretary. [3 *O.C. 301.5-6*]. The proposed amendments then clarify that when  
113       taking an oath, the law enforcement officer shall appear in person to take their oath, except if granted  
114       permission by the Oneida Business Committee Secretary to appear through video conferencing, or  
115       through other telecommunications. [3 *O.C. 301.5-6(a)*]. If an oath is administered outside of an Oneida  
116       Business Committee meeting, a quorum of Oneida Business Committee members are required to be  
117       present to witness the oath. [3 *O.C. 301.5-6(b)*].

118       ▪ *Effect.* The proposed amendments provide greater flexibility for when a law enforcement officer  
119       may take their sworn oath.

120 **G. *Oneida Public Safety and Security Commission.*** Section 301.4-7 of the current Law establishes the  
121 Oneida Police Commission to provide oversight regarding the activities and actions of the law  
122 enforcement operations to provide the greatest possible professional services to the Oneida community  
123 and to allow for community input regarding those law enforcement services through its representatives  
124 on the Police Commission. Section 301.6 of the current Law then goes on to provide for the  
125 qualifications, appointment term, responsibilities, and removal of the Oneida Police Commission. The  
126 proposed amendments to the Law expand the Oneida Police Commission into the Oneida Public Safety  
127 and Security Commission. [3 *O.C. 301.6*]. The purpose of the Oneida Public Safety and Security  
128 Commission is much the same as the Oneida Police Commission, except that it is now expanded to  
129 have oversight authority over the Internal Security Department and any other safety operation  
130 department of the Nation, in addition to the Oneida Police Department. [3 *O.C. 301.6-1*]. The terms  
131 of appointment for commissioners on the Oneida Public Safety and Security Commission remains the  
132 same as it was for the Oneida Police Commission. [3 *O.C. 301.6-2*].

133       ▪ *Effect.* The proposed amendments to the Law expand the Oneida Police Commission into the  
134 Oneida Public Safety and Security Commission in recognition that are more departments currently  
135 than just the Oneida Police Department that focus on the safety and security of the Nation, and this  
136 could be expanded even more in the future, and therefore the same oversight that the Oneida Police  
137 Commission provides the Oneida Police Department should be provided for all safety and security  
138 departments of the Nation.

139 **H. *Eligibility Qualifications.*** Section 301.6-3 of the current Law provides the eligibility requirements for  
140 serving on the Oneida Police Commission, which include: be a member of the Nation, be twenty-five  
141 (25) years of age or older; have a satisfactory background investigation; submit to drug testing prior to  
142 appointment and on an annual basis; not be an employee of the Oneida Police Department; attend  
143 applicable training; and be a person of known good standing in the community. The eligibility  
144 qualifications for the Oneida Public Safety and Security Commission remain much the same as the  
145 Oneida Police Commission except that the following eligibility requirements were removed from the  
146 Law: that an individual submit to drug testing prior to appointment and on an annual basis; the  
147 individual attend applicable training; and be a person of known good standing in the community. [3  
148 *O.C. 301.6-3*]. The proposed amendments to the Law also clarify that in addition to not being an  
149 employee of the Oneida Police Department, the individual cannot be an employee or terminated from  
150 the Oneida Police Department, Internal Security Department, or any other public safety operation  
151 overseen by the Oneida Public Safety and Security Commission. [3 *O.C. 301.6-3(d)*].

152       ▪ *Effect.* The eligibility requirement that an individual submit to drug testing prior to appointment  
153 and on an annual basis was removed from the Law due to the fact that other boards, committees,  
154 and commissions of the Nation do not include a similar requirement, and it was unknown why it  
155 was necessary to include that requirement for the Oneida Police Commission when the Commission  
156 members already have to pass a background investigation. The eligibility requirement that the  
157 individual attend applicable training was removed because this was determined that it was not so  
158 much of an eligibility requirement, but mores so a training requirement. The eligibility requirement  
159 that a person be of known good standing in the community was removed because the notion of  
160 “good standing” was too subjective and left a lot open to interpretation and would not be necessarily  
161 needed because a person already has to pass a background investigation. And finally, the eligibility



162 requirement that an individual cannot be an employee or terminated from the Oneida Police  
163 Department, Internal Security Department, or any other public safety operation overseen by the  
164 Oneida Public Safety and Security Commission was included in recognition that the Oneida Public  
165 Safety and Security Commission oversees multiple areas, and therefore employment in any of those  
166 areas is forbidden to avoid any potential or actual conflicts of interest.

167 **I. *Responsibilities of the Commission in regard to the Oneida Police Department.*** Section 301.6-1 of  
168 the current Law provides for the responsibilities of the Oneida Police Commission in regard to the  
169 Oneida Police Department. In the proposed amendments to the Law, the responsibilities of the Oneida  
170 Public Safety and Security Commission have been provided for in section 301.-4. Many of the  
171 responsibilities the Oneida Police Commission had over the Oneida Police Department remain the same  
172 through the transition to the Oneida Public Safety and Security Commission, including the following  
173 the responsibilities to: appoint, suspend, or remove the Police Chief of the Oneida Police Department;  
174 approve all law enforcement officer appointments made by the Police Chief including the promotion  
175 of subordinates; approve an eligibility list of individuals determined to be eligible for appointment as a  
176 law enforcement officer or promotion; hear charges filed against law enforcement officers or other  
177 appointed personnel of the Police Department, whether filed by the Oneida Public Safety and Security  
178 Commission or the Police Chief, make findings and determinations, and impose penalties, up to and  
179 including termination; Hear appeals of disciplinary actions against any law enforcement personnel –  
180 with the clarification added that the Oneida Public Safety and Security Commission shall not have  
181 authority over disciplinary actions of non-sworn personnel; and adopt standard operating procedures  
182 governing the Oneida Public Safety and Security Commission’s management of its own activities. [3  
183 *O.C. 301.6-4*]. The following responsibilities over the Oneida Police Department were removed from  
184 the Law with the proposed amendments: adopt, modify, and repeal rules governing how lists of  
185 individuals, concluded to be eligible for appointment to law enforcement officer and promotion, are  
186 established; approve competitive examinations used to judge suitability for appointment or promotion  
187 of law enforcement officers; suspend law enforcement officers or other appointed personnel of the  
188 Police Department pending the filing and hearing of charges against them, subject to the provisions of  
189 301.10; initiate charges against law enforcement officers or other appointed personnel of the Police  
190 Department.

191     ▪ *Effect.* The responsibilities of the Oneida Public Safety and Security Commission over the Oneida  
192 Police Department were amended to reflect the current practices of the Oneida Police Commission  
193 over the Oneida Police Department.

194 **J. *Responsibilities of the Commission in regard to Internal Security and other Departments.*** The  
195 proposed amendments to the Law provide that the responsibilities of the Oneida Public Safety and  
196 Security Commission in regard to the Internal Security Department or any other safety operation  
197 department of the Nation shall be provided for in the Oneida Public Safety and Security Commission  
198 bylaws. [3 *O.C. 301.6-5*].

199     ▪ *Effect.* The amendments to the Law provide that the responsibilities of the Oneida Public Safety  
200 and Security Commission in regard to the Internal Security Department or any other safety  
201 operation department of the Nation shall be provided for in the Oneida Public Safety and Security  
202 Commission bylaws, since it would not be appropriate for those responsibilities to be included in  
203 this Law because this Law governs law enforcement, and the Internal Security Department and any  
204 other safety operation of the Nation are not law enforcement.

205 **K. *Disciplinary Proceedings for Law Enforcement Officers.*** Section 301.9 of the current Law provides  
206 for the disciplinary proceedings for law enforcement officers. This section of the Law was entirely  
207 rewritten with the proposed amendments to the Law to simplify and clarify the disciplinary process.  
208 The proposed amendments to the law provide for the just cause standard, discipline of law enforcement  
209 officers by the Chief of Police, discipline of the Chief of Police, the right to request a hearing, filing of  
210 charges, procedure for responding to charges, scheduling conference, evidentiary hearing, deliberations  
211 and findings, and orders from the hearing. [3 O.C. 301.9].

212     ▪ *Effect.* The proposed amendments to the Law simplify and clarify the disciplinary process.

213 **L. *Firearms Control.*** Section 301.4-6 of the current Law provides that the Oneida Police Department  
214 may allow law enforcement use of service firearms in order to protect life, liberty, property, land, and  
215 premises, according to the usual and minimum accepted law enforcement standards as determined by  
216 the Police Chief with approval of the Oneida Police Commission. The current Law then goes on to  
217 clarify that the actual use of deadly force shall be allowed solely for the protection of life or the  
218 prevention of grievous bodily harm. Section 301.11-1 of the current Law provides that the Nation  
219 hereby establishes regulations for the carrying of firearms issued to certified law enforcement officers  
220 employed by the Nation, and then goes onto clarify that the needs and requirements for carrying  
221 firearms shall be established and determined by the Police Chief subject to the review of the Oneida  
222 Police Commission, and said requirements shall reflect the needs of the Nation in order to protect all  
223 persons and property. The proposed amendments to the Law move all provisions regarding the use of  
224 firearms to section 301.11 of the Law. The proposed amendments to the Law provide that the Oneida  
225 Police Department may allow law enforcement use of service firearms in order to protect life, liberty,  
226 property, land, and premises, according to the usual and current accepted law enforcement standards.  
227 [3 O.C. 301.11-1]. Section 301.11-2 of the proposed amendments to the Law remain the same except  
228 for minor non-substantive updates.

229     ▪ *Effect.* Overall, the proposed amendments to the Law referencing the usual and current accepted  
230 law enforcement standards instead of including language within the Law itself ensures that the law  
231 enforcement practices of the Nation stay up to date without having to amend the Law. ‘

232 **M. *Other Amendments.*** Overall, a variety of other amendments and revisions were made to the Law to  
233 address formatting, drafting style, and organization that did not affect the substance of the Law.

234

## 235 **SECTION 6. EXISTING LEGISLATION**

236 **A. *Other Related Laws of the Nation.*** The following laws of the Nation are related to the proposed  
237 amendments to this Law.

238     ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and  
239 Procedures is to provide for the Nation’s employee related policies and procedures including  
240 recruitment, selection, compensation and benefits, employee relations, safety and health, program  
241 and enterprise rules and regulations, and record keeping.

242     ▪ Section III of the Oneida Personnel Policies and Procedures provides for the Oneida preference  
243 and Indian preference in hiring statement of the Nation. Section 301.5-1(a) provides that all  
244 positions and appointments of the Oneida Police Department shall be subject to Indian  
245 preference in hiring, except that the following positions shall be held only by members of the  
246 Nation: Police Chief; Assistant Chief; and Police Lieutenant.

- 247           ▪ This Law clarifies that disciplinary actions for law enforcement officers is governed by section  
248           301.9 of this Law, while disciplinary actions of non-sworn personnel of the Oneida Police  
249           Department shall be governed by the Nation’s laws, policies, and rules governing employment.  
250           ▪ *Boards, Committees, and Commissions Law.* The Boards, Committees, and Commissions law  
251           governs boards, committees, and commissions of the Nation, including the procedures regarding  
252           the appointment and election of persons to boards, committees and commissions, creation of  
253           bylaws, maintenance of official records, compensation, and other items related to boards,  
254           committees, and commissions [1 O.C. 105.1-1].  
255                ▪ Section 301.6 of this Law establishes the Oneida Public Safety and Security Commission.  
256                ▪ The Oneida Public Safety and Security Commission is required to comply with all  
257                provisions of the Boards, Committees, and Commissions law.  
258

## 259 **SECTION 7. OTHER CONSIDERATIONS**

- 260 **A. *Bylaws of the Oneida Public Safety and Security Commission.*** With the expansion of the Oneida  
261 Police Commission into the Oneida Public Safety and Security Commission provided through the  
262 proposed amendments to this Law, the bylaws of the Commission will need to be updated. Specifically,  
263 section 301.6-5 of the Law states that the responsibilities of the Oneida Public Safety and Security  
264 Commission in regard to the Internal Security Department or any other safety operation department of  
265 the Nation shall be provided for in the Oneida Public Safety and Security Commission bylaws. The  
266 Boards, Committees, and Commissions law provides the requirements that must be followed for bylaws  
267 of a board, committee, or commission. [1 O.C. 105.10]. In May of 2024, the Legislative Operating  
268 Committee collaborated with the Oneida Law Office and the Government Administrative Office to  
269 discuss how to improve the process for amending bylaws for boards, committees, and commissions of  
270 the Nation. The Legislative Operating Committee no longer processes amendments to bylaws for  
271 boards, committees, and commissions of the Nation, as it was determined that the Government  
272 Administrative Office and the board, committee, or commission’s assigned attorney from the Oneida  
273 Law Office will instead assist in developing amendments to bylaws. This change in process will allow  
274 bylaw amendments to be directly placed on an Oneida Business Committee meeting agenda for  
275 approval which streamlines the process.  
276           ▪ *Conclusion.* Amended bylaws should be presented for adoption at the same time that the proposed  
277 amendments to the Law are presented for adoption to ensure a smooth transition between the  
278 Oneida Police Commission and the Oneida Public Safety and Security Commission. The  
279 Legislative Operating Committee should ensure that the need for amended bylaws be  
280 communicated to the Oneida Law Office and Government Administrative Office.
- 281 **B. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all  
282 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-  
283 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*  
284 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete  
285 a fiscal impact statement at various stages of the legislative process, as well as timeframes for  
286 completing the fiscal impact statement.  
287           ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact  
288 statement be completed.

289

# January 2025

| January 2025 |    |    |    |    |    |    |
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| February 2025 |    |    |    |    |    |    |
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| MONDAY   | TUESDAY   | WEDNESDAY   | THURSDAY  | FRIDAY  |
|--|---|---|---|---|
| Dec 30   | 31  | Jan 1, 25   | 2   | 3   |
| 6<br>1:00pm Higher Ed Rule Review (Microsoft Teams Meeting) - Grace L. Elliott   | 7   | 8   | 9   | 10<br>2:00pm Sanctions and Penalties Law Work Meeting (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Clorissa N. Leeman |
| 13<br>3:00pm Workplace Violence amendments work meeting (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Carolyn A. Salutz | 14<br>2:00pm Hunting, Fishing, and Trapping Law Amendments Work Meeting (Microsoft Teams Meeting) - Clorissa N. Leeman                    | 15<br>8:30am LOC Prep Meeting (Microsoft Teams Meeting;<br>9:00am Legislative Operating Committee Meeting (Microsoft<br>1:30pm LOC Work Session                 | 16  | 17  |
| 20   | 21<br>8:30am Higher Education Grant Law/Rule (BC_Exec_Conf_Room) - Grace L. Elliott   | 22  | 23<br>11:00am Independent Contractor Policy amendments - work meeting (Microsoft Teams Meeting) - Carolyn A. Salutz | 24<br>1:15pm Higher Education Grant law/rule (BC_Exec_Conf_Room) - Grace L. Elliott                                     |
| 27<br>2:30pm Furlough Law and Layoff Policy - work meeting (Microsoft Teams Meeting) - Carolyn A. Salutz                 | 28<br>10:00am Recycling and Solid Waste amendments - work meeting (Microsoft<br>2:00pm Real Property Amendments (Microsoft Teams Meeting; | 29<br>10:00am Two Spirit Inclusion law- work meeting (Microsoft Teams Meeting;<br>1:30pm Energy Law Work Meeting (Microsoft Teams Meeting) - Clorissa N. Leeman | 30  | 31<br>1:15pm Higher Education Grant law/rule (BC_Exec_Conf_Room) - Grace L. Elliott                                     |